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COBBETT'S

Parliamentary History

OF

ENGLAND.

VOL. V.

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COBBETT'S

Parliamentary History

OF

ENGLAND.

FROM THE NORMAN CONQUEST, IN 1066,

TO

THE YEAR 1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED DOWNWARDS IN THE WORK ENTITLED,

"COBBETT'S PARLIAMENTARY DEBATES."

VOL. V.

COMPRISING THE PERIOD FROM THE REVOLUTION, IN 1688, TO THE ACCESSION OF QUEEN ANNE, IN 1702.

LONDON:

PRINTED BY T. C. HANSARD, PETERBOROUGH-COURT, FLEET-STREET.

PUBLISHED BY R. BAGSHAW, BRYDGES STREET, COVENT GARDEN; AND SOLD BY J. BUDD, PALL-MALL; J. FAULDER, NEW BOND-STREET; SHERWOOD, NEELEY AND JONES, PATERNOSTER-ROW; BLACK, PARRY AND KINGSBURY, LEADENHALL-STREET; BELL AND BRADFUTE, EDINBURGH; AND J. ARCHER, DUBLIN.

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THE present Volume embraces the period from the Revolution, in 1688, to the Accession of QUEEN ANNE, in the year 1702. For this period, the materials, as well for the Proceedings as the Debates, have been, for the most part, collected from the following Works: 1. The Journals of the House of Lords; 2. The Journals of the House of Commons; 3. The Debates of the House of Commons, from 1688 to 1694, collected by the Honourable Anchitell Grey, who was forty years member for the town of Derby; 4. The Debate between the Lords and the Commons, at a Free Conference, held in the Painted Chamber, in the Session of the Convention in 1688, relating to the words, "*Abdicated*," and "*the Vacancy of the Throne*," used in the Vote of the Commons; 5. A Collection of the Debates and Proceedings in Parliament in 1694 and 1695, upon the Inquiry into the [then] late Briberies and corrupt Practices, printed in the year 1695; 6. Proceedings in the House of Commons against Sir John Fenwick, printed in the year 1698; 7. Timberland's History and Proceedings of the House of Lords; and, 8. Chandler's History and Proceedings of the House of Commons.

Here again, as in the former Volumes, recourse has been had to the best historians and contemporary writers; and, amongst others, to Burnet, Echard, Kennet, Oldmixon, Ralph, Tindal, Boyer, and Somerville. The Hardwicke Papers have also been consulted; together with the State Tracts, and the Harleian Collection.

There is subjoined, by way of Appendix, a Collection of very scarce and valuable Parliamentary Tracts, taken from those of Lord Sommers, the Harleian Miscellany, and the Collection of State Tracts published during the reign of William the Third.

April 15, 1809.

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TABLE OF CONTENTS

TO

VOLUME V.

I. Proceedings and Debates in both Houses of Parliament.
II. Articles of Impeachment.
III. Addresses.
IV. Declarations.
V. King's Letters.
VI. King's Messages.
VII. King's Speeches.
VIII. Lists of the Members of the House of Commons.
IX. Petitions.
X. Protests.
XI. Army, Navy, Finance. &c.
XII. Persons filling the several High Offices of State, from the Revolution in 1688, to the Accession of Queen Anne in 1702.
XIII. Contents of the Appendix.
XIV. Index of the Names of the several Speakers in both Houses of Parliament.

I. PROCEEDINGS AND DEBATES IN BOTH HOUSES OF PARLIAMENT.

1688. 4 JAMES II.

		Page
Oct. 10.	The Prince of Orange's First Declaration	1
24.	The Prince of Orange's Additional Declaration	11
28.	A Counterfeit Declaration published in the Prince of Orange's Name	13
Nov. 5.	The King's Answer to the Prince of Orange's Declaration	15
	The Petition of several Lords to the King for calling a Parliament—The King's Answer	16
	Lord Devonshire's Paper	17
	The Nottingham Paper	17
	The King's Proclamation, declaring a General Pardon	18
	The King's Proposals to the Prince of Orange—His Highness's Answer	18

INTERREGNUM.

	The King leaves Whitehall, and throws the Great Seal into the Thames	19
Dec. 11.	Meeting of the Peers at Guild Hall—Their Declaration	19
	Address of the City of London to the Prince of Orange	20

Digitized by Google

		Page
Dec. 21.	The Lords meet the Prince of Orange at St. James's—His Highness's Speech	21
23.	The King's Paper, left behind him when he took shipping for France	21
25.	The Peers assemble at Westminster, and Address the Prince of Orange	23
	The Prince of Orange summons the Commons—His Speech to them —They form themselves into a House—Their Address to the Prince —The Prince's Answer	24

MEETING OF THE CONVENTION.

1688-9.		
Jan. 22.	List of the Members of the Convention	26
	Mr. Powel chosen Speaker of the House of Commons	32
	The Prince of Orange's Letter to both Houses—Debate thereon	32
	Address of both Houses to the Prince—The Prince's Answer	33
	Debate on filling up the Vacancies of the House	34
	The King's Letter to both Houses	35
28.	Debate on the State of the Nation	36
	Vote of the Commons, declaring the Throne vacant	50
29.	Further Debate on the State of the Nation	50
	Thanks voted to the Clergy, Army, and Navy	58
	Proceedings in the Lords on the Vote of Vacancy	58
Feb. 1.	A tumultuous Petition set on foot	60
2.	Debate in the Commons on the Lords' Amendment of the Word "ABDICATED;"—A Conference with the Lords thereon	61
6.	DEBATE AT A FREE CONFERENCE, RELATING TO THE WORD "ABDICATED"	66
7.	The Lords agree to the Vote of Vacancy	108
13.	THE DECLARATION OF RIGHTS	108
	The Prince of Orange's Answer thereto	111

WILLIAM AND MARY.

	William and Mary proclaimed King and Queen	111
	Settlement of the Court, Council, and Ministry	113
	The CONVENTION turned into a Parliament	118
18.	The King's Speech to both Houses	118
19.	Debate in the Commons on the King's Speech	119
	Debate on the Bill for preventing Doubts concerning the assembling and sitting of this Parliament	122
	The Convention voted a Parliament	134
25.	Further Debate in the Commons on the King's Speech	135
	Debate on taking away the old Oaths of Allegiance, &c.	137
26.	Debate on the King's Revenue	138
27.	The Commons resolve to stand by the King with their Lives and Fortunes	150
March 1.	State of the Revenue delivered in by Sir R. Howard	150
	The King's Message relative to the Hearth Money—Debate thereon	152
	The King's Message on committing several Persons—Debate thereon	153
	Debate on the Bill for suspending the Habeas Corpus Act	156
5.	Report from the Committee of Grievances	159
	Debate on Grievances	159
6.	Protest on the Bill for regulating Trials	162
8.	The King's Answer to the Address of Lives and Fortunes	162
9.	Debate on a Motion for printing the Votes	164
11.	Debate on the King's Speech	168
	Debate on the Bill for annulling lord Russel's Attainder	169
	Farther Debate on the King's Revenue	171

Digitized by Google

		Page
Mar. 14.	Debate on the Vote for indemnifying the Dutch	175
15.	Debate on the Mutiny of lord Dumbarton's Regiment	179
16.	Debate on the Bill for disarming Papists	182
	The King's Speech in favour of Dissenters	184
20.	Debate on the Bill for regulating Trials	184
	Account of the Produce of the Excise	187
	Estimate of the Charge of Government	189
	Further Debate on the King's Revenue	191
22.	Debate on the Supply for Ireland	193
	Bill brought into the House of Lords to abrogate the former Oaths—Protest thereon	196
25.	The King's Message, recommending a Bill of Indemnity—Debate thereon	198
	Debate on the Coronation Oath	199
26.	Estimate for the Fleet, and Extract of the Treaty with Holland	206
	Debate on settling a Revenue on the Princess Anne	207
28.	Debate on the Coronation Oath	208
April 4.	The Bill of Comprehension—Protest thereon	212
11.	THE KING AND QUEEN CROWNED—The Speaker's congratulatory Speech to their Majesties upon the Coronation—The King's Answer	215
19.	Address of both Houses to the King, thanking him for his Care of the Protestant Religion—The King's Answer	216
	Debate on the Lords' Amendment of the Bill for abrogating the Oaths of Allegiance and Supremacy—Conference on the said Bill—Protest against not agreeing with the Commons—The Lords' Reply to the Commons' Reasons—Debate on the said Reply—Debate thereon at a second Free Conference	218
24.	Debate on rewarding the Duke of Schomberg	231
	Address of the Commons for a War with France—The King's Answer	234
26.	The Civil List settled	235
	A List of Perpetuities and Pensions during Life or Lives, &c.	236
	Report concerning Sir Thomas Armstrong	244
30.	Resolutions for raising the Navy Supplies	245
May 1.	The Case of Edmund Prideaux, esq.	245
4.	A Bill from the Lords rejected	246
7.	Debate on some Words that passed between Captain Bertie and Mr. Harbord	247
8.	Debate on the Bill of Rights and Succession	249
10.	Twelve pence in the pound Land Tax granted—The Petition of George Speke, esq.	253
13.	Sir H. Monson and Lord Fanshaw expelled, for refusing to take the Oaths	253
14.	Debate on the Heads for a Bill of Indemnity	255
17.	Debate on the Bill of Indulgence to Dissenters	263
22.	Debate on the Habeas Corpus Suspension Bill	266
23.	Titus Oates's Petition to the Commons	277
	Exceptions voted in the Bill of Indemnity	278
	Report of Monies issued from the Exchequer for Crown Prosecutions—Resolutions thereon	278
June 1.	Debate on the Neglect of relieving Londonderry	280
3.	Debate on the Heads for the Bill of Indemnity	284
	Debate on the Judgments against Titus Oates	289
12.	Farther Debate on the Heads for a Bill of Indemnity	296
13.	Debate on King James's Declaration	302
14.	The Judges examined touching the Dispensing Power	308
15.	Report of Mrs. Fitzharris's Case	313
	Address of the Commons relating to the Irish Protestants	314
	Further Debate on the Heads for a Bill of Indemnity	315
18.	Debate on an Address to the King to secure the Garrisons, &c.	329

Digitized by Google

		Page
June 18.	The Judges again examined touching the Dispensing Power - -	332
	Debate on Mr. Justice Wythens—Lord Chief Justice Wright—Lord Chief Justice Bedingfield - - - - - - - - -	338
19.	Debate on the Lords' Amendments to the Bill of Rights and Succession - - - - - - - - - - - -	339
	Debate on certain Treasonable Papers communicated to the Commons by order of the King - - - - - - - - -	341
	Further Debate on the Lords' Amendments to the Bill of Rights and Succession - - - - - - - - - - -	345
21.	Petition of John Bearcroft, esq. Serjeant at Arms to Charles II. -	347
22.	Debate on Irish Miscarriages - - - - - - - - -	348
24.	Case of Mr. Samuel Johnson—Resolutions thereon - - -	349
	Articles of Impeachment against Sir Adam Blair and others, for dispersing King James's Declaration - - - - - -	350
	Debate on the Breach of Privilege upon the Earl of Danby - -	353
	Debate on Mr. Justice Bedingfield, touching the Dispensing Power	354
25.	Debate on a Petition, being presented from the City of London, unsigned - - - - - - - - - - - - -	356
	Petition from the Common Council of London for taking off the Tests	359
26.	Debate on the Impeachment of Sir Adam Blair and others - -	360
28.	Report of the Warrant against the Earl of Danby—Debate thereon	363
	The King's quickening Speech to both Houses - - - - -	368
	Debate in the Commons thereon - - - - - - -	369
July 1.	Further Debate on the Heads of Exceptions in the Bill of Indemnity	371
10.	Sir F. Pemberton and Sir T. Jones examined—Reasons to be offered at a Conference on the Bill of Rights—Judgment of the King's Bench against a late Speaker reversed - - - - - -	379
12.	The King's Message for a Recess—The King's Answers to two Addresses—Mr. Jephson's Vindication - - - - - - -	380
16.	Report of a Conference with the Lords on the Bill of Rights - -	382
	The Duke of Schomberg takes leave of the House - - - -	382
25.	Report from the Council Books, relating to the collecting of the Customs and Excise—Reasons for not agreeing with the Lords' Amendments to the Bill for an Additional Duty on Coffee, &c.—The Lords' Reasons for insisting on their Proviso to the said Bill	384
31.	Report of the Conference on the Bill for reversing the Judgments against Oates—Protest thereon - - - - - - -	386
Aug. 13.	Reasons to be offered at a Conference with the Lords for settling the Order of Conferences - - - - - - - - -	397
	Petition against Colonel Copley - - - - - - - -	399
	A tumultuous Petition of the Silk Weavers, occasioned by a Woollen Bill - - - - - - - - - - - - -	400
	Conference on the Bill of Attainder - - - - - -	401
20.	The Speakers' Speech to the King at the Adjournment—The King's Speech to both Houses - - - - - - - - -	401

Second Session of the Convention Parliament.

Oct. 25.	Proceedings against Burton, Graham, &c.—The Earls of Salisbury and Peterborough impeached—An Enquiry voted into the Conduct of the War - - - - - - - - - - -	405
Nov. 2.	Debate on the State of the War - - - - - -	407
6.	Debate on the Bill of Rights - - - - - - -	411
	Debate on Major-General Ludlow's coming to England - -	412
	Debate on attaching Lord Chancellor Jefireys - - - -	413
7.	Debate on the Supply - - - - - - - -	415
11.	Debate on the State of Ireland - - - - - - -	418
	Case of Lord Griffin—Petition of Lord Preston - - - -	420

Digitized by Google

		Page
Nov. 13.	Mr. Trenchard and Mr. Hampden sent for by the Lords touching the Murder of Lord Russel—Debate thereon	421
	Debate on the Merchants' Petition against Captain Churchill	425
14.	Debate on the State of the Nation	429
15.	Debate on disfranchising the Borough of Stockbridge for Bribery and Corruption	433
16.	Debate on the Defect of Ordnance, &c.	435
18.	Debate on the Charge against Captain Churchill for taking Money for Convoys	439
19.	Dr. Walker receives the Thanks of the Commons for his gallant Defence of Londonderry	443
	Debate on a Petition from the Jews	444
	Resolutions on the Case of Sir Thomas Armstrong	445
23.	Debate on the State of the Nation	446
	Debate on Abuses in Victualling the Fleet	447
26.	Debate on Mr. Waller's Account of the State of the Army in Ireland	451
	Debate on the State of the Nation	453
	Debate on the Misconduct of Commissary Shales	454
29.	Debate on a Clause in the Indemnity Bill	461
	Address against Commissary Shales—Debate thereon	462
30.	The King's Message for a Commission to be sent into Ireland	467
Dec. 2.	Debate, Whether any Member of the House should be put into the said Commission	467
7.	The Quakers exempted from Double Taxes	473
14.	Debate on the State of the Nation	473
	Further Proceedings on the Bill of Rights—Protest thereon	481
16.	The Speaker's Speech to the King on presenting the Bill of Rights	483
	The Bill of Rights	483
17.	Debate on the Bill for continuing the Revenue for a Year	490
	Debate on the Grant to the Princess Anne	492
20.	The King's Answer to the Address relating to Commissary Shales	501
21.	Address on the State of the Nation—Debate thereon	502
1689-90.		
Jan. 10.	Debate on the Corporation Bill	508
18.	Debate on Sir Robert Sawyer's Prosecution of Sir Thomas Armstrong	516
	Sir Robert Sawyer expelled	527
21.	Debate on the Bill of Indemnity	527
22.	Debate on a Petition from Sir T. Pilkington, Lord Mayor of London, and others	533
23.	An Amendment to the Corporation Bill carried in the Affirmative—Protest thereon	536
27.	The King's Speech at the Prorogation—The Parliament dissolved	539
	Proceedings on the General Election—Several Changes at Court	540

First Session of the Second Parliament.

Mar. 20.	List of the House of Commons	541
	Sir John Trevor chosen Speaker	547
21.	The King's Speech on opening the Session	548
22.	Debate on the King's Speech	549
1690.		
27.	Debate on settling the Revenue	552
31.	Debate on the Supply	562
April 5.	Proceedings in the House of Lords on the Bill of Recognition—Protests thereon	574
8.	Debate on reversing a Judgment in a Quo Warranto against the City of London	578
9.	Debate in the Commons, on the Bill of Recognition	580

Digitized by Google

		Page
Apr. 17.	Debate in the Commons, on the Sheriffs of London being called in	586
22.	Debate on the Bill for reversing the Judgment against the City of London	588
24.	Debate on the King's Change of the Lieutenancy of London	590
	Debate on the Abjuration Bill	594
	Debate on securing the Government, and suspending the Habeas Corpus Act	604
30.	Debate on the Regency Bill	612
May 2.	Debate on Sir Edward Seymour's Charge against Mr. Rowe, for dispersing a Libel	618
5.	Further Debate on the Regency Bill	622
9.	Proceedings on the Bill of £.500 Forfeitures	635
12.	Debate on two Members attending the House of Lords	637
13.	Debate on preserving the Peace of the Nation	638
23.	The King's Speech at the Adjournment	647

Second Session of the Second Parliament.

Oct. 2.	The King's Speech on Opening the Session—Address of Thanks	649
Nov. 25.	The King's Speech respecting the Supplies	651
30.	Report concerning Impeachments	652
1690-1.		
Jan. 5.	The King's Speech at the Close of the Session	652

Third Session of the Second Parliament.

1691.		
Oct. 22.	The King's Speech on Opening the Session	654
28.	The Thanks of the Commons given to General Ginkle	655
Nov. 9.	Estimates for the Year 1692	655
	Debate on the Supply	656
12.	Inquiries into the Conduct of the Fleet	657
	Dr. Welwood reprimanded by the House	658
18.	Debate on the Bill for regulating Trials in Cases of Treason	658
	Debate on the Supply	660
Dec. 3.	Debate on the Accounts and Observations delivered by the Commissioners of Accounts—And on Secret Service Money paid to Parliament-Men	666
9.	Debate on Fuller's Information	672
11.	Debate on the Lords' Amendments to the Bill for the Regulation of Trials in cases of Treason	675
17.	Report of a Conference respecting the Bill of Trials	682
24.	The King's Speech on passing the Money Bills	684
31.	Debate on the Conference with the Lords on their Amendments to the Bill of Trials	684
1691-2		
Jan. 4.	Debate on Fuller's further Information	689
11.	Debate on a Motion for further Supply	691
13.	Report of the Free Conference respecting the Bill of Trials	691
	Debate on the said Report	704
Feb. 24.	The King's Speech at the close of the Session	706

Fourth Session of the Second Parliament.

1692.		
Nov. 4.	The King's Speech on opening the Session	707
12.	Debate on the Conduct of the Fleet	709
18.	Debate on the Bill for regulating Trials in cases of Treason	712

Digitized by Google

		Page
Nov. 21.	Debate on employing Foreign General Officers	715
	Debate on the King's asking the Advice of the House	722
26.	Debate on Col. Churchill's Complaint of a Breach of Privilege	734
	Further Debate on the Bill of Trials—Question for a Conference passed in the Negative—Protest thereon	737
Dec. 20.	Debate on Admiral Russel's Orders	743
22.	Bill touching free and impartial Proceedings in Parliament	744
	The Speeches of Sir Charles Sedley and the Earl of Mulgrave thereon	745
1692-3.		
Jan. 10.	Debate on advising the King respecting the Admiralty	752
16.	A Bill for frequent Parliaments brought into the House of Lords	754
18.	Reasons for not agreeing with the Lords in an Amendment to the Land Tax Bill	754
21.	Complaint against a Book entitled, "King William and Queen Mary Conquerors"	756
28.	Debate on the Bill for frequent Parliaments	756
31.	Trial of Lord Mohun	762
Feb. 9.	Further Debate on the Bill for frequent Parliaments	763
Mar. 10.	Address of the Commons upon the State of Ireland	768
14.	The King's Speech at the close of the Session—Promotions	770

Fifth Session of the Second Parliament.

1693.		
Nov. 7.	The King's Speech on opening the Session	772
13.	Debate on the King's Speech, and the Miscarriages of the Fleet	775
15.	Debate on the Miscarriages of the Fleet	778
28.	Debate on the Bill for more frequent Parliaments	787
29.	Debate on the King's Speech	788
	Further Debate on the Miscarriages of the Fleet	789
Dec. 4.	Debate on a Bill, touching free and impartial Proceedings in Parliament	793
6.	Further Debate on the Miscarriages of the Fleet	797
7.	Charge against Lord Falkland—Debate thereon	800
8.	Account of the Confederated Forces	807
9.	Report of Sums issued for Secret Service, and paid to Members of Parliament—Debate thereon	807
11.	Debate on the Supply	811
16.	A Petition of the Quakers rejected	816
	Articles of Impeachment against Lord Coningsby and Sir Charles Porter	816
	Debate thereon	818
18.	Debate on the Bill for frequent Parliaments	820
20.	Resolutions with regard to the Army and Navy	822
22.	Further Debate on the Bill for frequent Parliaments	824
1693-4.		
Jan. 10.	Vote to acquit the Commanders of the Fleet—Protest thereon	827
19.	The East India Company obtains a New Charter	826
22.	Order for observing Decorum in the House of Commons	828
25.	The King refuses to pass the Place Bill	828
26.	Debate on the King's rejecting the Place Bill	829
27.	The Commons' Representation to the King thereon	833
31.	The King's Answer—Debate thereon	834
Feb. 8.	The Million Annuity Bill passed	839
9.	Account of Monies paid to Members of Parliament	839
17.	Bishop of Worcester's Speech in the Great Cause of the Earl of Bath	841
Mar. 23.	The King's Speech to both Houses pressing for Dispatch	849
24.	Order concerning Protections—Protest thereon	849

Digitized by Google

Page

Mar. 24. Sir John Knight's Speech against the Bill for naturalizing Protestant Foreigners—The said Speech ordered to be burnt by the Common Hangman - - - - - - - - - - - - 849

1694.

Apr. 25. The King's Speech at the Close of the Session - - - - 857
Preferments—Proceedings during the Recess - - - - 858

Sixth Session of the Second Parliament.

Nov. 12. The King's Speech on opening the Session - - - - - - 859
The Triennial Bill passed—A Supply voted - - - - - 860
Dec. 21. Mr. Dyer, a News-Letter Writer, reprimanded for noticing the Proceedings of the House - - - - - - - - - 862
31. Both Houses address the King on the Death of the Queen - - 863

WILLIAM THE THIRD.

1694-5.

Jan. 12. State of the Revenue - - - - - - - - - - - 865
Proceedings in the Commons against Bribery and Corruption—Several Agents examined and committed—Agent Pauncefort ordered to the Tower—Mr. Guy, Secretary of the Treasury, sent to the Tower for taking a Bribe—Account of Fees and Salaries payable at the Exchequer—Resolutions respecting Fees, Salaries, and Pensions—Representation of the Commons to the King, on the Abuses and ill Practices of Agents, &c.—The King's Answer—Craggs, an Army Clothier, refuses to produce his Books—Commissioners of the Hackney Coaches corrupted—Report of Corruptions in the East India Company's Affairs—Report of Corrupt Practices in procuring the passing of the Orphans' Bill - - - - - 881
Mar. 12. The Speaker being charged with Corrupt Practices, absents himself from the House—Mr. Foley chosen Speaker—Sir John Trevor, the late Speaker, expelled - - - - - - - - - - 906
18. Mr. Bird reprimanded for offering a Bribe to a Member - - - 910

1695.

Mar. 26. Mr. Hungerford expelled, and Sir Thomas Cooke sent to the Tower, for refusing to be examined - - - - - - - - - 911
April 6. A Bill to oblige Sir Thomas Cooke to answer sent up to the Lords, and opposed by the Duke of Leeds—Message to the Commons relating thereto—Sir T. Cooke heard by the Lords—The Duke of Leeds moves that he should purge the Peers upon Oath—Bill to indemnify Sir T. Cooke - - - - - - - - - 911
22. The King's short Speech for dispatch of Business - - - - 913
24. Report of Sir T. Cooke's Examination by a Committee of both Houses 914
Debate upon the said Report - - - - - - - - - 921
27. Examination of Sir Basil Firebrace—And of Powell—And of Bates—Second Examination of Sir B. Firebrace—Examination of Sir Josiah Child - - - - - - - - - - - - - 922
Debate on the above Examinations - - - - - - - 930
The Duke of Leeds voted to be impeached—The Duke's Speech in the House of Lords—And in the House of Commons—Debate thereon - - - - - - - - - - - - 933
29. Articles of Impeachment against the Duke of Leeds—The Duke's Speech thereon—The Duke complains of delay, and desires his Impeachment may be discharged - - - - - - - 937

Digitized by Google

		Page
May 2.	The offering of Money to a Member voted a High Crime and Misdemeanour	939
3.	The Duke of Leeds arraigns the Conduct of the Commons	940
	The Parliament prorogued	941
	Proceedings relative to the Lancashire Plot	942
	Case of Baronies by Writ—Protest thereon	947
	Speech of the Marquis of Normanby in the Affair of the Convex Lights—Protest against acquitting the said Marquis	949
	The ill state of the Coin redressed	955
	Mr. Scobell's Report concerning the Coinage	956
	The King's Speech at the close of the Session—Promotions—The Parliament dissolved	957

First Session of the Third Parliament.

	List of the House of Commons	958
Nov. 22.	Mr. Foley chosen Speaker	963
	The King's Speech on opening the Session	964
	Addresses of both Houses—The King's Answer	965
26.	Bill for regulating Trials in Cases of Treason	965
	Order respecting Protections—The Supplies granted	966
	Proceedings on the ill state of the Coin	967
Dec. 14.	Proceedings relating to the Scotch East India Company	975
	Lord Belhaven and others impeached thereon	976
	A Council of Trade voted	977
	A Grant of the Revenues of Wales to the Earl of Portland strongly opposed—Debate thereon	978
	Mr. Price's memorable Speech against the said Grant	979
	Address to the King respecting the said Grant—His Answer	985
1695-6.		
Feb. 24.	The King's Speech on the Discovery of the Assassination Plot—Address of both Houses thereon—The King's Answer—Resolutions occasioned by the Plot	987
	An Association signed by the Commons—Another by the Lords	991
1696.		
April 2.	Bill for the Security of His Majesty's Person	993
10.	A Bill for regulating Elections rejected	993
27.	The King's Speech at the close of the Session	994

Second Session of the Third Parliament.

Oct. 20.	The King's Speech on Opening the Session	995
	The Commons' Address—The King's Answer	996
	Vote on the State of the Coin—Army and Navy Estimates	996
28.	Pamphlets censured—The Supplies voted	997
	Proceedings against Sir John Fenwick upon a Bill of Attainder—A Bill of Attainder ordered—Mr. Manley, a Member, committed to the Tower—Debate concerning the Mace—The Bill read to Sir John—Mr. Serjeant Gould opens the Charge and Evidence—Debate thereon—Resolved, to give Sir John further time; but that Evidence may be given of the Treason of the Indictment—Porter's Evidence—Debate on admitting Evidence that Lady Fenwick had tampered with the Witnesses—Debate on admitting Goodman's Examination as Evidence—Debate on the Question for reading the Record of Cook's Conviction—Debate on calling for Cook's Jury as Evidence—Sir John's Letter to his Lady offered as Evidence; but rejected—The Gentlemen charged by Sir John,	

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Page

move, that he may prove the Charge—Sir John refuses to answer on that Head—Mr. Vernon relates the Endeavours made by Sir John to put off his Trial—Debate on committing the Bill—And on the third Reading—The Bill sent up to the Lords and passed—List of the Lords for and against the Bill—Protest thereon - - 998

Nov. 27. Proceedings for the purpose of relieving the Embarrassments of the Revenue - - - - - - - - - - - 1156

Priviledged Places disfranchised - - - - - - 1161

Dec. 8. Case of Conrade Greibe—Address thereon—The King's Answer - 1161

9. Inquiry into the Conduct of the Fleet - - - - - 1162

30. Report of the Committee upon the Abuses of Prisons - - - 1162

1696-7.

Jan. 21. Orders for dispersing a Mob—Votes relating to the Newfoundland Trade—The Printer of the Flying Post ordered into Custody—A Bill to restrain the Press rejected - - - - - - - 1163

1697.

Apr. 16. The King's Speech at the close of the Session - - - - 1164

THIRD SESSION OF THE THIRD PARLIAMENT.

Dec. 3. The King's Speech on opening the Session - - - - - 1165

9. The Commons' Address—The King's Answer - - - - 1166

The Commons resolve to disband the Army - - - - - 1167

20. A Civil List settled on his Majesty for Life—Sums granted, and for what Uses - - - - - - - - - - - - 1168

Enquiry into the False Endorsements on Exchequer Bills: And Duncomb and Knight, two Members, expelled for the same - - 1170

A Bill of Resumption ordered - - - - - - - - - 1171

1697-S.

Feb. 9. Address of the Commons to put the Laws in force against Profaneness and Immorality—The King's Answer—An Act for suppressing Atheism, &c. - - - - - - - - - - - - 1172

1698.

The Earl of Macclesfield's Case - - - - - - - 1173

Apr. 16. Impeachment of Gaudet and Others of High Crimes and Misdemeanours—Issue of the said Impeachment - - - - - - 1175

May 4. The Dispute between the two East India Companies—A Bill passed in favour of the New Company—Protest thereon - - 1177

21. Molyneux's "Case of Ireland" complained of—Address thereon - 1181

July 5. The King's Speech at the close of the Session - - - - 1182

The Parliament prorogued and dissolved - - - - - 1183

FIRST SESSION OF THE FOURTH PARLIAMENT.

Dec. 6. List of the House of Commons - - - - - - - - 1184

Sir Thomas Littleton chosen Speaker - - - - - - - 1189

9. The King's Speech on opening the Session - - - - - 1191

Vote to reduce the Army—The King's Speech thereon—Address of the Commons thereon—The King's Answer - - - - - 1191

1698-9.

Mar. 17. The King's Message concerning the Dutch Guards—The Commons' Address in Answer thereto—The King's Answer - - - 1194

1699.

Mar. 29. The Commons' Address on the State of the Navy—The King's Answer - - - - - - - - - - - - - 1196

The Earl of Warwick and Lord Mohun tried for a Murder; and acquitted - - - - - - - - - - - - - 1197

Digitized by Google

Page

April 3. Certain Letters of Mr. Chivers, a Member, complained of—Vote thereon - - - - - - - - - - - - 1198
May 4. The King's Speech at the close of the Session - - - - 1199

THE SECOND SESSION OF THE FOURTH PARLIAMENT.

Nov. 16. The King's Speech on opening the Session - - - - 1199
The Commons' Remonstrance thereon—The King's Answer - - 1201
Dec. 6. Motion relative to Lord Bellamont - - - - - - - 1202
Report of the Commissioners for taking an Account of the Forfeited Estates—Debate on the Conduct of the said Commissioners - - 1202
1699-1700.
Feb. 6. The Resumption Bill ordered—Votes relative to the said Grants laid before his majesty—The King's Answer—Ways and Means—Address relating to Capt. Kidd - - - - - - - - - 1215
1700.
April 8. Amendments made by the Lords to the Bill of Supply—Conference thereon—The King requests the Lords to pass the Bill; which they do—Proceedings thereon in the House of Lords—Protests against the Bill - - - - - - - - - - - - 1217
10. An Address against Lord Chancellor Sommers negatived - - 1221
11. The Parliament prorogued and dissolved—A remarkable Act against Papists—Lord Sommers removed from Administration—The King goes to Holland—Honours and Promotions - - - - - 1222

FIRST SESSION OF THE FIFTH PARLIAMENT.

1700-1.
Feb. 6. List of the House of Commons - - - - - - - - 1226
Mr. Harley chosen Speaker - - - - - - - - 1232
11. The King's Speech on opening the Session - - - - - 1232
Address of the Commons to support the King—The King's Answer—A Second and Third Address—The King's Answer - - - 1233
17. The King communicates to both Houses, the Earl of Melfort's Letter to the Earl of Perth—Address of the Lords on the King's Speech - 1235
Mar. 3. First Vote in relation to the Protestant Succession—Heads of the Bill of Succession - - - - - - - - - - 1236
18. The King's Message relative to the Partition Treaty—Address of the Commons thereon—The King's Answer—The Treaty debated in the House of Lords—Message to the Commons relative to the Treaty—Protests thereon—The Lords Address - - - - 1237
1701.
Mar. 31. The King's Message concerning the French King's Answer to the Memorials—The humble Advice of the Commons thereon—The King's Answer - - - - - - - - - - 1242
April 1. The Earl of Portland, Lord Sommers, the Earl of Orford, and Lord Halifax, impeached - - - - - - - - - 1243
The King's Letter to Lord Sommers—Lord Sommers's Answer - 1246
25. The Commons' Address to remove the impeached Lords from the King's presence for ever—The King's Answer—Counter Address of the House of Lords - - - - - - - - - 1248
May 8. The King's Message concerning the Negotiations at the Hague—Vote thereon - - - - - - - - - - 1250
THE KENTISH PETITION—The Gentlemen who delivered it committed - - - - - - - - - - - - 1250
THE LEGION LETTER AND MEMORIAL—Vote thereon - - - 1252
Difference between the two Houses relative to the Impeachments - 1257

Digitized by Google

		Page
May 9.	Articles of Impeachment against the Earl of Orford—The Earl of Orford's Answer	1257
19.	Articles of Impeachment against Lord Sommers—Lord Sommers's Answer	1266
21.	Second Message from the Lords respecting the Impeachments—Replication of the Commons to the Earl of Orford—Their Answer to the Lords—Second Message from the Lords—Third Message—Answer of the Commons—Fourth Message from the Lords—Conference—Fifth Message from the Lords—Answer of the Commons—Another Conference—A Free Conference	1288
June 12.	The King's Speech on passing the Act of Succession	1294
	Address of the Commons respecting Alliances—The King's Answer	1295
	Sixth Message from the Lords respecting the Impeachments—Answer of the Commons—Report of a Conference, and the Offence given to the Commons thereat by Lord Haversham—Votes thereon—Message from the Lords—Vote thereon	1295
14.	Articles of Impeachment against Lord Halifax—Lord Halifax's Answer	1299
16.	Rules to be observed at the Trial of the impeached Lords	1310
	Reasons of the Commons against proceeding to the Trial of Lord Sommers—Answer of the Lords	1310
17.	Lord Sommers tried and acquitted—Remonstrance of the Commons thereon—Answer of the Lords	1313
	Answer of Lord Haversham to the Complaint of the Commons	1315
20.	The Commons refuse to appear at the Earl of Orford's Trial—The Earl acquitted—The Impeachments dismissed by the Lords	1320
	A Bill for stating the Public Accounts amended by the Lords	1321
24.	The Speaker's Speech to the King on presenting the Money Bills	1322
	The King's Speech at the close of the Session	1322
	The Parliament prorogued and dissolved	1323

First Session of the Sixth and Last Parliament of William III.

Dec. 30.	List of the House of Commons	1324
	Mr. Harley chosen Speaker	1329
31.	The King's last Speech in Parliament	1329
1701-2.		
Jan. 1.	Addresses of both Houses—The King's Answers	1331
6.	The State of Affairs laid before the Commons—A Supply voted	1333
9.	A Bill for the Security of his Majesty's Person brought in	1333
	The pretended Prince of Wales attainted	1334
	Act for abjuring the pretended Prince of Wales—Protest thereon	1334
22.	Proceedings against Fuller for libelling the last House of Commons	1336
	Some remarkable Proceedings in controverted Elections—Certain petitioning Burgesses of Malmsbury taken into custody—A Censure passed on the Earl of Peterborough	1337
	Case of Mr. Colepeper, the Kentish Petitioner—The Aspersions cast on the last House of Commons voted scandalous, villainous, &c. and the said Colepeper committed	1339
	Proceedings relative to the Rights and Privileges of the House of Commons	1339
Feb. 28.	Message concerning an Union with Scotland	1340
	The King's Illness,—and Fall from his Horse	1340
Mar. 2.	Bills passed by Commission	1342
	Death of the King	1342

Digitized by Google

II. ARTICLES OF IMPEACHMENT.

			Page
1689.	June 24.	ARTICLES OF IMPEACHMENT against Sir Adam Blair and Others, for dispersing King James's Declaration, 350—Debate thereon	360
1693.	Dec. 16.	against Lord Coningsby and Sir Charles Porter —Debate thereon	816
1695.	Apr. 29.	against the Duke of Leeds	937
1698.	May 16.	against Gaudet and Others for High Treason	1175
1701.	May 9.	against the Earl of Orford—The Earl's Answer	1257
	19.	against Lord Sommers—His Lordship's Answer	1266
	June 14.	against Lord Halifax—His Lordship's Answer	1299

III. ADDRESSES.

1688.	Dec. 11.	ADDRESS of the City of London to the Prince of Orange	20
	25.	of the Lords assembled at Westminster to the Prince of Orange	23
	28.	of the Lords to the Prince of Orange	25
1688-9.	Jan. 22.	of both Houses to the Prince of Orange—The Prince's Answer	33
1689.	April 9.	of both Houses to the King, thanking him for his Care of the Protestant Religion, and desiring him to call a Convocation—The King's Answer	216
	24.	of the Commons for a War with France—The King's Answer	234
	June 14.	of the Commons relative to the Irish Protestants	314
	18.	to the King to secure the Garrisons	329
	Nov. 29.	of the Commons, against Commissary Shales	462
		The King's Answer	501
	Dec. 21.	of the Commons, on the State of the Nation	502
1692-3.	Mar. 10.	of the Commons, upon the State of Ireland	768
1693-4.	Jan. 27.	of the Commons, on the King's rejection of the Place Bill—The King's Answer	833
1694-5.	Feb. 26.	of the Commons, on the Abuses and ill Practices of Agents, &c.—The King's Answer	892
	Dec. 14.	of the Commons, on a Grant to the Earl of Portland—The King's Answer	985
1695-6.	Feb. 24.	of both Houses, on the discovery of the Assassination Plot—The King's Answer	988
1696.	Oct. 20.	of the Commons for carrying on a War against France—The King's Answer	990
1697-8.	Feb. 9.	of the Commons to put the Laws in force against Profaneness and Immorality—The King's Answer	1172
1698.	June 22.	of the Commons, on "Molyneux's State of Ireland"—The King's Answer	1181
1698-9.	Feb. 1.	of the Commons, in the King's Speech respecting the Vote for disbanding the Army—The King's Answer	1193
		The Commons' Further Address—The King's Answer	1194
1699.	Mar. 29.	of the Commons, on the State of the Navy—The King's Answer	1196
	Nov. 16.	or Remonstrance of the Commons, on the King's Speech—The King's Answer	1201

Digitized by Google

			Page
1700-1.	Feb. 6.	ADDRESS of the Commons to support the King—The King's Answer, 1233—A Second and Third Address—The King's Answer - - - - - -	1235
		- - - - - of the Lords, on the King's Speech - -	1236
	Mar. 18.	- - - - - of the Commons, on the Partition Treaty—The King's Answer - - - - - -	1238
		- - - - - of the Lords on the Partition Treaty—The King's Answer - - - - - - -	1242
1701.	Apr. 25.	- - - - - of the Commons to remove the Impeached Lords from the King's presence for ever—The King's Answer—Counter Address of the Lords -	1248
1701-2.	Jan. 1.	- - - - - of the Lords, concerning the Pretender—The King's Answer - - - - - - -	1331
	5.	- - - - - of the Commons, respecting the Pretender—The King's Answer - - - - - - -	1332

IV. DECLARATIONS.

1688.	Oct. 10.	DECLARATION (First) of the Prince of Orange - -	1
	Nov. 28.	- - - - - - - - (Counterfeit) of the Prince of Orange -	13
	Dec. 11.	- - - - - - - - of the Peers at Guild-hall - - -	19
1688-9.	Feb. 7.	- - - - - - - - of RIGHTS—The Prince of Orange's Answer thereto - - - - - - -	108

V. KING'S LETTERS.

WILLIAM III.

1688-9.	Jan. 22.	THE KING'S LETTER to both Houses - - - -	32, 35
1701.	April 1.	- - - - - - - - - - - to Lord Sommers - - -	1246

VI. KING'S MESSAGES.

WILLIAM III.

1688-9.	Mar. 1.	THE KING'S MESSAGE relative to the Hearth Money -	152
		- - - - - - - - - - - on committing several Persons -	153
	25.	- - - - - - - - - - - recommending a Bill of Indemnity	198
1689.	July 13.	- - - - - - - - - - - for a Recess - - - -	380
	Dec. 2.	- - - - - - - - - - - for a Commission to be sent into Ireland - - - -	467
1700-1.	Mar. 18.	- - - - - - - - - - - relative to the Partition Treaty -	1237
1701.	May 8.	- - - - - - - - - - - concerning the Negotiations at the Hague - - - -	1250
1701-2.	Feb. 28.	- - - - - - - - - - - concerning an Union with Scotland	1340

VII. KING'S SPEECHES.

WILLIAM III.

1688.	Dec. 21.	THE KING'S SPEECH to the Lords met at St. James's -	21
	23.	- - - - - - - - - - to the Peers at St. James's - -	24
1688-9.	Feb. 18.	- - - - - - - - - - to both Houses - - - -	118

Digitized by Google

			Page
1689.	Oct. 19.	THE KING'S SPEECH to both Houses	402
1689-90.	Jan. 27.	at the Prorogation	539
	Mar. 21.	on opening the Session	547
1690.	May 23.	at the Adjournment	647
	Oct. 2.	on opening the Session	649
	Nov. 25.	to both Houses	651
1690-1.	Jan. 5.	at the close of the Session	652
1691.	Oct. 22.	on opening the Session	654
	Dec. 24.	on passing the Money Bills	684
1691-2.	Feb. 24.	at the close of the Session	706
1692.	Nov. 4.	on opening the Session	707
1692-3.	Mar. 14.	at the close of the Session	770
1693.	Nov. 7.	on opening the Session	772
1693-4.	Mar. 4.	to both Houses, pressing for Dispatch	849
1694.	Apr. 25.	at the close of the Session	857
	Nov. 12.	on opening the Session	859
1695.	Apr. 22.	for dispatch of Business	913
	May 3.	at the close of the Session	956
	Nov. 22.	on opening the Session	964
1695-6.	Feb. 24.	on the Discovery of the Assassination Plot	987
1695-6.	Apr. 27.	at the close of the Session	994
1696.	Oct. 20.	on opening the Session	995
1697.	Apr. 16.	at the close of the Session	1164
	Dec. 3.	on opening the Session	1165
1698.	July 5.	at the close of the Session	1182
	Dec. 6.	on opening the Session	1191
1698-9.	Feb. 1.	to both Houses on the Vote to reduce the Army	1192
1699.	May 1.	at the close of the Session	1199
	Nov. 16.	on opening the Session	1199
1700-1.	Feb. 6.	on opening the Session	1232
1701.	June 12.	on passing the Act of Settlement	1204
	24.	at the close of the Session	1322
	Dec. 30.	on opening the Session	1329

VIII. LISTS OF THE MEMBERS OF THE HOUSE OF COMMONS.

1688-9.	Jan. 22.	LIST of the Members of the Convention	26
1689-90.	Mar. 20.	--- of the House of Commons in King William's Second Parliament	541
1695.	Nov. 22.	--- of the House of Commons in King William's Third Parliament	953
1698.	Dec. 6.	--- of the House of Commons in King William's Fourth Parliament	1184
1700-1.	Feb. 6.	--- of the House of Commons in King William's Fifth Parliament	1226
Dec. 30.	1701.	--- of the House of Commons in King William's Sixth and Last Parliament	1324

Digitized by Google

IX. PETITIONS.

			Page
1688.	Nov. 5.	Petition of several Lords to the King for calling a Parliament—The King's Answer	16
1689.	May 23.	----- of Titus Oates to the Commons	277
	June 21.	----- of John Bearcroft, esq.	547
	25.	----- from the Common Council of London for taking off the Tests	359
	Aug. 13.	----- against Colonel Copley	399
	14.	----- (a tumultuous) of the Silk Weavers	400
	Nov. 12.	----- of the Lord Viscount Preston	421
1701.	May 8.	----- the Kentish	1250

X. PROTESTS.

1688-9.	Mar. 6.	Protest on the Bill for regulating Trials	162
	22.	----- on the Bill to abrogate the former Oaths	196
1689.	April 4.	----- on the Bill of Comprehension	212
	20.	----- on the Bill for abrogating the Oaths	223
	July 28.	----- on the Bill for reversing the Judgments against Titus Oates	396
	Dec. 14.	----- on the Bill of Rights	482
1689-90.	Jan. 23.	----- on the Corporation Bill	538
1690.	Apr. 5.	----- on the Bill of Recognition	575
1692.	Dec 22.	----- on the Bill touching free and impartial Proceedings in Parliament	751
1693-4.	Jan. 5.	----- on the Bill for free and impartial Proceedings in Parliament	826
	10.	----- on the Vote to acquit the Commanders of the Fleet	827
	Mar. 24.	----- on the Order concerning Protections	849
1695.	Apr. 18.	----- against acquitting the Marquis of Normanby	952
1696.	Dec. 1.	----- on the Bill of Attainder against Sir John Fenwick	1155
1698.	July 1.	----- on the Bill for a New East India Company	1180
1699.	April 4.	----- on the Bill of Supply	1218
1700-1.	Mar. 15.	----- respecting the Partition Treaty	1239

XI. ARMY, NAVY, FINANCE, &c.

Army.

1693.	Dec. 20.	Resolutions with regard to the Land Forces	822
1696.	Oct. 28.	Estimates of the Charge of the Army	927

Navy.

1689.	Mar. 26.	Estimate for the Fleet	206
1693.	Dec. 20.	Resolutions with respect to the Navy	823
1695.	Oct. 28.	Estimates of the Charge of the Navy	997

Finance, &c.

1688-9.	Mar. 1.	State of the Revenue	150
	16.	Account of the Produce of the Excise	187
		Estimate of the Charge of Government	189

Digitized by Google

			Page
1689.	Apr. 26.	The Pension List - - - - - - - - -	236
1691.	Nov. 29.	Estimates for the Year 1692 - - - - - - -	655
1693.	Dec. 9.	Report of Sums issued for Secret Service and paid to Members of Parliament - - - - - - - - -	807
1693-4.	Feb. 9.	Account of Monies paid to Members of Parliament -	839
1694-5.	Jan. 12.	State of the Revenue - - - - - - - - -	865
	Feb. 21.	Account of Fees and Salaries payable at the Exchequer -	887
1695.	- - - - -	Account of the Acres and Houses, with the Proportional Tax, &c. of each County in England and Wales. Appendix, No. X.	
1695.	- - - - -	An Essay upon Taxes, calculated for the present Juncture of Affairs in England. By the Marquis of Halifax. Appendix, No. XII.	
		A General Abstract of the RECEIPTS and ISSUES of the PUBLIC REVENUE, TAXES, and LOANS during the Reign of his late Majesty King William; that is to say, from the 5th of November 1688, from which time the Parliament appointed the said Accounts should commence, to the 25th of March 1702; being the first Determination of the Accounts after the Demise of his said late Majesty; which happened on the 8th of March preceding. Appendix, No. XIX.	

XII. PERSONS FILLING THE SEVERAL HIGH OFFICES OF STATE FROM THE REVOLUTION, IN 1688, TO THE ACCESSION OF QUEEN ANNE, IN 1702.

Archbishops of Canterbury.

1688. William Sancroft, Dean of St. Paul's, deprived for not taking the Oaths to King William and Queen Mary.
1691. John Tillotson, Dean of St. Paul's.
1694. Thomas Tennison, translated from Lincoln.

Lord High Chancellors.

1690. Sir John Maynard, knt.; Sir Anthony Keck, knt.; and Sir William Rawlinson, knt., Commissioners or Keepers, from March 1, till June 3.
1690. Sir John Trevor, knt.; Sir William Rawlinson, knt.; and Sir George Hutchins, knt.; Commissioners or Keepers.
1693. Sir John Sommers, knt., Lord Keeper.
1697. - - - - - made Lord Chancellor, and created Lord Sommers.
1700. Sir Nathan Wright, knt., Lord Keeper, May 21.

Speakers of the House of Commons.

1689. Jan. 22. Henry Powle, esq., Member for Windsor.
1690. Mar. 20. Sir John Trevor, Yarmouth, Hants. On the 20th of March 1694, he was expelled the House for taking a Gratuity after the Orphans' Bill had passed. See p. 906.
1694. Mar. 14. Paul Foley, esq., Hereford City.
1698. Dec. 6. Sir Thomas Littleton, bart., Woodstock, Oxfordshire.
1700. Feb. 6. Robert Harley, esq., New Radnor.

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Masters of the Rolls.

1689. Mar. 13. Henry Powle, esq.
1692. Jan. 13. Sir John Trevor, knight.

Attorneys General.

1688. Mar. 4. Henry Pollexfen, esq.
1689. May 7. Sir George Treby, knt.
1692. May 2. Sir John Sommers, knt., afterwards Lord Sommers.
1693. April 4. Edward Ward, esq.
1695. June 10. Sir Thomas Trevor, esq., afterwards Lord Trevor.
1701. July 5. Edward Northey, esq.

Solicitors General.

1688. May 4. Sir George Treby, knt.
1689. May 7. John Sommers, esq., afterwards Lord Sommers.
1692. Mar. 2. Thomas Trevor, esq.
1695. July 13. John Hawles, esq.

XIII. CONTENTS OF THE APPENDIX.

APPENDIX.—No. I.

Some OBSERVATIONS concerning the regulating of Elections for Parliament, found among the Earl of Shaftsbury's Papers after his Death, and now recommended to the Consideration of this present Parliament. [That is to say, the Convention Parliament which met on the 22nd of January 1688, for it was not till then that these OBSERVATIONS were made public] - - ii

APPENDIX.—No. II.

A Debate upon the Quære, whether a King elected and declared by the Lords spiritual and temporal, and Commons assembled at Westminster 22d of January, 1688, coming to and consulting with the said Lords and Commons, doth not make as compleat a Parliament, and legislative Power and Authority, to all Intents and Purposes, as if the said King should cause a new Summons to be given and new Elections to be made by Writs - - - x

APPENDIX.—No. III.

The Earl of SUNDERLAND's Letter to a Friend in the Country, plainly discovering the Designs of the Romish Party, and others, for the subverting of the Protestant Religion, and the Laws of the Kingdom. Licensed and Entered March 23, 1689 - - - - - - - - - - - - xiv

APPENDIX.—No. IV.

A VINDICATION of the Proceedings of the late Parliament of England, An. Dom. 1689, being the First in the Reign of their present Majesties King William and Queen Mary. By John Lord Sommers. - - - - - - xviii

Digitized by Google

TABLE OF CONTENTS.

APPENDIX.—No. V.

Page

The State of Parties, and of the Publick, as influenced by those Parties in this Conjuncture, offered to Englishmen. Printed about the Year 1692 - - xxxiv

APPENDIX.—No. VI.

Some Considerations about the most proper Way of Raising Money in the present Conjuncture. Printed about the year 1692. Written by John Hampden, Esq. - - - - - - - - - - - - 1

APPENDIX.—No. VII.

Some short Considerations concerning the State of the Nation. Printed about November, 1692: Written by John Hampden, Esq. - - - lxvi

APPENDIX.—No. VIII.

An Esquiry; or a Discourse between a Yeoman of Kent, and a Knight of a Shire, upon the Prorogation of the Parliament to the 2nd of May, 1693. By Major Wildman and Mr. Hampden - - - - - - - lxxxii

APPENDIX.—No. IX.

A Short State of our Condition, with relation to the present Parliament; commonly called the "Hush-money Paper." By C. Lawton, Esq. Printed about November 1693 - - - - - - - - - - - xcix

APPENDIX.—No. X.

An Account of the Acres and Houses, with the Proportional Tax, &c. of each County in England and Wales. Humbly presented to the Lords and Commons, 1693 - - - - - - - - - - - - ciii

APPENDIX.—No. XI.

The Danger of Mercenary Parliaments - - - - - - - - cvii

APPENDIX.—No. XII.

An Essay upon Taxes, calculated for the present Juncture of Affairs in England. By the Marquis of Halifax, 1693 - - - - - - - cxix

APPENDIX.—No. XIII.

A Letter to a Member of Parliament, shewing that a Restraint on the Press is inconsistent with the Protestant Religion, and dangerous to the Liberties of the Nation. Printed in the Year 1697 - - - - - - - cxxx

Digitized by Google

TABLE OF CONTENTS.

APPENDIX.—No. XIV.

Considerations upon the Choice of a Speaker of the House of Commons in the approaching Session. Printed in the Year 1698 - - - - - cli

APPENDIX.—No. XV.

Considerations on the Nature of Parliaments, and our present Elections. Published in the Year 1698 - - - - - - - - - - clv

APPENDIX.—No. XVI.

A Letter to a Country Gentleman, setting forth the Cause of the Decay and Ruin of Trade. To which is annexed, A List of the Names of some Gentlemen who were Members of the last Parliament, and now are (or lately were), in public Employments. London, printed in 1698 - - clxiii

APPENDIX.—No. XVII.

The History of the Kentish Petition, in 1701 - - - - - - clxxiv

APPENDIX.—No. XVIII.

Jura Populi Anglicani: or the Subject's Rights of Petitioning set forth, occasioned by the Case of the Kentish Petitioners. With some Thoughts on the Reasons which induced those Gentlemen to petition: and of the Commons Right of Imprisoning. Printed in 1701 - - - clxxxvii

APPENDIX.—No. XIX.

A General Abstract of the Receipts and Issues of the Public Revenue, Taxes, and Loans, during the Reign of his late Majesty King William: that is to say, from the 5th of November 1688, from which Time the Parliament appointed the said Accounts should commence, to the 25th of March 1702; being the first Determination of the Accounts after the Demise of his said late Majesty; which happened on the 8th of March preceding - ccxxxix

APPENDIX.—No. XX.

A List of Public Acts, passed from the Revolution in the Year 1688 to the Accession of Queen Anne, in the Year 1701-2 - - - - - ccl

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XIV.

INDEX

OF THE NAMES OF THE SEVERAL SPEAKERS IN BOTH HOUSES OF PARLIAMENT.

A.

Annesley, Mr. 1209.
Arnold, Mr. 166, 254.
Austen, Col. 255, 259, 328, 431, 458, 530, 560, 564, 568, 621, 639, 735.

B.

Bellamont, Earl of, 818.
Bertie, Mr. 247, 248.
Birch, Col. 33, 36, 50, 57, 131, 143, 144, 153, 154, 161, 167, 169, 180, 183, 184, 192, 193, 195, 203, 221, 236, 259, 264, 268, 283, 286, 294, 297, 302, 303, 313, 332, 333, 344, 357, 361, 369, 409, 417, 430, 441, 456, 464, 469, 471, 494, 498, 519, 529, 573, 592, 593, 609, 614, 626.
Blake, Sir Francis, 564.
Boscawen, Mr. 49, 54, 120, 133, 148, 154, 171, 173, 178, 208, 221, 261, 267, 274, 275, 295, 320, 327, 331, 340, 358, 492, 1025, 1099, 1140.
Boyle, Mr. 1004, 1088.
Brewer, Mr. 301, 317, 325.
Brewster, Sir F. 1208.
Bridges, George Rodney, 1014.
Brockman, Mr. 288.
Bromley, Mr. 829.
Brotherton, Mr. 1015, 1039, 1101.

C.

Capel, Sir Henry, 34, 47, 122, 133, 138, 145, 148, 155, 164, 170, 181, 192, 199, 204, 208, 233, 248, 251, 256, 259, 260, 262, 265, 270, 287, 295, 305, 322, 324, 333, 424, 462, 469, 476, 492, 516, 526, 534, 586, 592.
Carter, Mr. 219, 255.
Cary, Mr. 595.
Cholmondeley, Col. 597.
Churchill, Capt. 439, 734.
Clarendon, Earl of, 75, 88, 89, 94, 98.
Clarges, Sir Tho. 34, 35, 42, 61, 121, 123, 130, 135, 136, 138, 139, 142, 145, 146, 148, 153, 155, 157, 158, 160, 161, 168, 171, 172, 177, 192, 200, 205, 207, 232, 233, 251, 253, 254, 255, 264, 265, 271, 272, 273, 297, 305, 331, 340, 343, 345, 346, 352, 360, 361, 365, 369, 370, 407, 408, 417, 418, 423, 426, 429, 436, 438, 446, 454, 461, 467, 471, 474, 476, 480, 493, 509, 512, 534, 551, 565, 581, 587, 594, 600, 609, 618, 624, 637, 661, 668, 705, 711, 717, 722, 727, 728, 737, 761, 776, 794, 812, 829.
Clayton, Sir Rob. 148, 156, 160, 169, 181, 303, 340, 425, 588, 590.
Colchester, Lord, 50, 465, 718.
Colleton, Sir Peter, 715.
Colt, Mr. 248, 281.
Coningsby, Mr. 201, 302, 414.
Coningsby, Lord, 818, 1020.
Copley, Sir Godfrey, 1039, 1050, 1115.
Coryton, Sir Wm. 1036.
Cotton, Sir Robert, 210, 221, 256, 269, 275, 296, 298, 301, 316, 319, 356, 364, 422, 495, 525, 553, 568, 571, 1132.
Cowper, Mr. 1007, 1141.
Crofts, Sir Herbert, 1108, 1130.
Cutts, Lord, 1019, 1034, 1043, 1070, 1118.

D.

Danby, Earl of, 353.
Dashwood, Sir S. 591.
Digby, Lord, 595, 1101.
Dolben, Mr. 36, 47, 51, 62, 520, 527, 646, 686, 1123.
Drake, Sir F. 147.
Dutton, Sir Ralph, 285.
Dyke, Sir Thomas, 218, 1019, 1059.

E.

Earle, Col. 718.
Ellwell, Mr. 331, 432.
Ely, Bishop of, 72, 73.
Ettrick, Mr. 201, 205, 218, 250, 264, 269, 271, 288, 302, 315, 318, 324, 374, 494, 514, 527, 559, 602.
Eyre, G. 107, 129, 138, 148, 173.

F.

Falkland, Lord, 52, 53, 55, 62, 124, 138, 141, 156, 252, 510, 580, 596, 727, 801.
Fanshaw, Lord, 50, 255.
Fenwick, sir J. 1055.
Finch, Mr. 39, 45, 49, 61, 144, 156, 169, 170, 174, 187, 202, 203, 209, 220, 435, 490, 496, 514, 556, 627, 630, 658, 680, 686, 738, 740, 759, 803, 1017, 1085.
Foley, Paul, 107, 161, 167, 221, 252, 264, 271, 295, 300, 434, 466, 473, 480, 493, 506, 514, 553, 591, 660, 670, 721, 730, 775, 821, 831, 1006, 1117.
Fox, Mr. 309.

G.

Garroway, Mr. 33, 53, 56, 139, 148, 149, 154, 168, 169, 192, 194, 195, 199, 200, 208, 232, 247, 249, 253, 259, 260, 262, 273, 274, 305, 307, 309, 310, 313, 325, 333, 344, 407, 409, 418, 455, 468, 478, 526, 530.
Godolphin, Mr. 133, 142, 178, 205, 221, 249, 250, 251, 266, 274, 298, 418, 446, 619, 825.
Godolphin, Lord, 979.

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Goodrick, Sir H. 170, 198, 205, 209, 225, 229, 231, 233, 252, 263, 321, 330, 331, 365, 367, 435, 456, 511, 529, 564, 581, 598, 606, 628.
Goodwell, Mr. 757.
Gower, Leveson, 217, 254, 280, 308, 465, 476, 493, 629, 632, 633, 640.
Granville, Col. 411, 563, 596, 607, 611, 613, 683, 726, 740, 1003, 1013, 1107.
Grosvenor, Sir Tho. 597.
Guise, Sir John, 111, 168, 232, 285, 299, 345, 354, 567, 374, 418, 430, 455, 447, 464, 470, 474, 476, 506, 518, 525, 529, 585, 559, 563, 565, 589, 599, 619, 634, 644.
Guy, Mr. 192.
Gwynn, Sir Rowland, 50, 339, 365.

H.

Hamond, Mr. 1132.
Hawles, Mr. 250, 252, 253, 262, 270, 286, 288, 293, 295, 299, 302, 306, 307, 316, 317, 318, 319, 322, 325, 327, 337, 355, 415, 424, 434, 466, 471, 504, 516, 521, 530, 535.
Hampden, John, 33, 34, 52, 61, 66, 84, 122, 123, 136, 153, 155, 157, 165, 178, 180, 181, 183, 187, 251, 247, 248, 250, 259, 260, 266, 269, 275, 282, 300, 303, 305, 321, 340, 341, 344, 345, 359, 425, 431, 435, 448, 462, 470, 477, 494, 511, 518, 520, 521, 535, 566, 583.
Hampden, Mr. Jun. 57, 167, 175, 194, 195, 199, 200, 202, 207, 233, 264, 307, 321, 356, 462, 473, 480, 495, 496, 525, 610, 612, 621, 625, 627.
Harbord, Mr. 40, 57, 176, 177, 178, 179, 192, 194, 198, 208, 232, 247, 248, 249, 257, 261, 262, 272, 282, 317, 328, 331, 366, 371, 574, 613.
Harcourt, Mr. 582, 596, 606, 1016, 1032, 1067, 1136.
Hartley, Mr. 257, 725, 760, 793, 795, 813, 815, 830, 837, 1020, 1033, 1043, 1104.
Harvey, Sir Eliab, 321.
Haversham, Lord, 1293.
Herbert, Mr. 248, 251.
Holt, Serjeant, 70, 140, 174, 473.
Howard, Sir Rob. 46, 50, 62, 96, 128, 125, 134, 137, 144, 145, 147, 148, 153, 158, 159, 166, 171, 175, 182, 187, 194, 195, 229, 231, 255, 257, 259, 261, 263, 264, 265, 271, 281, 283, 289, 292, 297, 301, 305, 310, 318, 320, 323, 367, 375, 408, 424, 446, 459, 470, 477, 515, 587, 591, 601, 631.
Howe, John, 33, 40, 49, 124, 136, 142, 160, 177, 179, 184, 193, 199, 200, 205, 220, 226, 281, 285, 290, 295, 297, 293, 299, 301, 302, 306, 303, 309, 317, 318, 325, 327, 331, 341, 342, 363, 366, 369, 370, 371, 376, 429, 464, 468, 476, 503, 513, 526, 685, 706, 778, 831, 1006, 1020, 1021, 1035, 1043, 1049, 1079.
Hussey, Sir Edw. 411, 606.
Hutchinson, Mr. 553, 830, 835.

J.

Jennings, Sir Jonathan, 142, 179.
Jennings, Sir Edmund, 553, 583, 603, 646.

K.

Knight, Sir John, 50, 349.

L.

Lee, Sir Tho. 33, 39, 56, 100, 125, 132, 133, 145, 148, 153, 158, 161, 164, 169, 171, 172, 174, 176, 178, 184, 193, 202, 211, 218, 220, 229, 231, 232, 254, 295, 296, 299, 301, 302, 322, 324, 328, 330, 331, 332, 356, 360, 361, 408, 416, 419, 423, 432, 413, 449, 481, 491, 504, 564, 584, 587, 594, 599, 610, 614, 620, 621, 629.
Leeds, Duke of, 931, 938, 940.
Living, Sir Rd. 1204.
Littleton, Sir T. 63, 153, 154, 166, 174, 201, 220, 233, 254, 255, 264, 266, 273, 306, 315, 317, 325, 150, 593, 600, 623, 632, 761, 795, 835, 1006, 1021, 1031, 1027, 1078.
London, Bishop of (Dr. Crompton) 230.
Love, Mr. 146, 160.
Lowther, Sir John, 146, 157, 172, 173, 182, 258, 260, 261, 267, 313, 316, 313, 319, 322, 323, 325, 329, 358, 359, 459, 468, 477, 518, 519, 552, 556, 562, 563, 565, 567, 580, 581, 586, 591, 601, 607, 616, 620, 626, 632, 640, 644, 647, 666, 670, 706, 716, 739, 759, 777, 813.
Lowther, Sir Wm. 1101.

M.

Machell, Mr. 316.
Mainwaring, Sir John, 597.
Manley, Mr. 1030, 1047, 1054, 1129.
Maynard, Serjeant, 36, 40, 45, 54, 72, 89, 90, 103, 124, 128, 131, 182, 183, 293, 294, 297, 305, 306, 320, 332, 365, 465, 504, 511, 531, 536, 552, 611, 613, 617, 623.
Medlecot, Mr. 50, 119.
Methwen, Mr. 1023, 1112.
Mildmay, Col. 181, 247, 248, 269, 506.
Monson, Sir H. 254.
Montagu, Edw. 254, 283.
Montagu, Charles, 775, 821.
Montagu, John, 1012.
Mordaunt, Capt. 723, 1003.
Mulgrave, Earl of, 748, 949.
Musgrave, Sir Christ. 39, 40, 58, 123, 133, 145, 156, 162, 172, 187, 193, 194, 198, 203, 232, 247, 250, 251, 259, 270, 274, 288, 307, 330, 343, 367, 369, 438, 441, 455, 463, 493, 510, 526, 553, 558, 559, 565, 569, 583, 593, 607, 620, 624, 688, 720, 738, 794, 803, 814, 821, 825, 838, 1011, 1025, 1037, 1046.

N.

Napier, Sir Robt. 267.
Newport, Mr. 1062.
Norreys, Lord, 248, 1019, 1110, 1132.
Norris, Mr. 1083.
Nottingham, Earl of, 72, 77, 82, 90, 91, 93, 103, 227, 231.

O.

Onslow, Sir Rd. 726.
Oxendon, Sir James, 47.

P.

Paget, Mr. 1102, 1144.
Palmes, Mr. 460, 815.
Papillon, Mr. 168, 176, 177, 178, 319, 551.
Pelham, Mr. 208, 254, 554, 759, 1034, 1077, 1150.
Pembroke, Earl of, 80, 89, 90, 93, 103, 230, 231.
Pilkington, Mr. 156.
Pollexfen, Henry, 47, 55, 86, 89, 133, 139, 145, 148, 171, 174, 204.
Powle, H. 32, 35, 170, 183, 187, 215, 218, 247, 248, 249, 254, 255, 260, 283, 289,

Digitized by Google

307, 353, 444, 483, 580, 602.
Price, Robert, 978, 979, 1010, 1041, 1045.
Pulston, Sir Roger, 978.
Pulteney, Sir Wm. 49, 140, 156, 170, 185, 490, 510, 630.
Pulteney, Mr. 1060.

R.

Raleigh, Sir C. 323.
Ranelagh, Earl of, 437, 717.
Rich, Sir R. 323, 324, 466, 474, 505, 522, 607, 633, 668.
Richard, Sir Robert, 1033.
Roberts, Mr. 50, 270, 600.
Rochester, Earl of, 84, 94.
Russel, Sir F. 267.
Russel, Admiral, 427, 430, 439, 1051.

S.

Sacheverell, Mr. 55, 85, 91, 92, 93. 137, 149, 156, 167, 169, 191, 193, 195, 210, 219, 251, 255. 297, 302, 316, 320, 340, 345, 416, 467, 508, 527, 551, 561.
Sackville, Col. 453.
Salisbury, Bishop of, (Dr. Burnet) 228, 231.
Sawyer, Sir Robt. 47, 51, 52, 62, 119, 130, 141, 146, 155, 209, 265, 268, 326, 327, 329, 517, 523, 582, 613, 617.
Sedley, Sir Charles, 562, 574, 622, 634, 640, 643, 658, 671, 684, 691, 745, 747, 757, 763.
Seymour, Mr. 35, 56.
Seymour, Sir Edw. 36, 122, 124, 125, 146, 157, 158, 160, 348, 353, 407, 415, 423, 432, 434, 436, 440, 442, 466, 480, 496, 555, 563, 572, 579, 608, 619, 634, 638, 642, 691, 715, 727, 759, 793, 824, 1016, 1126.
Seymour, Sir Tho. 1098.
Shackerley, Mr. 598.
Sloane, Mr. 1009, 1030, 1047, 1073, 1145.
Smith, Mr. 281, 310, 319, 342, 343, 353, 372, 419, 477, 726, 1008, 1035, 1135.
Swynfin, Mr. 571.
Sommers, John (afterwards Lord), 42, 68, 93, 144, 201, 230, 252, 458, 492, 495, 513, 529, 583, 615, 631, 677, 680, 712.
Strickland, Sir W. 285, 328, 1095, 1123.

T.

Temple, Sir Rich. 38, 51, 53, 58, 61, 62, 63, 99, 103, 123, 132, 143, 155, 158, 161, 166, 173, 176, 180, 184, 233, 255, 256, 258, 262, 287, 322, 466, 1007, 1022, 1093, 1139.
Thompson, Sir John, 218, 253, 285, 323, 331, 343, 363, 366, 369, 416, 455, 558, 568, 606, 666, 667, 776, 829.
Tipping, Mr. 62, 332, 413, 481.
Titus, Col. 777, 825.
Treby, Sir George, 40, 78, 80, 100, 133, 134, 141, 143, 180, 222, 227, 228, 249, 347, 410, 491, 497, 532, 659, 678, 687.
Tredenham, Sir Joseph, 159, 164, 175, 194, 198, 199, 200, 211, 219, 256, 262, 263, 276, 283, 287, 300, 319, 330, 366, 368, 412, 429, 459, 758.
Tremaine, Serjeant, 613, 628.
Trenchard, Mr. 1210.
Trevor, Sir John, 298, 410, 422, 432, 434, 491, 520, 533, 677, 906.
Trumbel, Mr. 1024.

V.

Ventris, Peyton, 140.
Vernon, Mr. 1133.

W.

Waller, Mr. 731, 732, 1022.
Ward, Sir Patience, 51.
Warr, Bromley, 1134.
Wharton, Henry, 39, 52, 153, 272, 569, 603, 723, 1023, 1087.
Whitaker, Mr. 1015.
Whitlock, Sir Wm. 526, 623.
Wildman, Major, 51, 52, 161, 181.
Williams, Sir Wm. 42, 50, 53, 133, 137, 139, 143, 158, 167, 172, 175, 176, 179, 180, 185, 191, 193, 207, 209, 221, 228, 247, 263, 273, 276, 285, 287, 294, 295, 296, 298, 300, 305, 306, 307, 308, 310, 316, 324, 326, 328, 344, 346.
Williamson, Sir Joseph, 554, 560, 569, 602, 604, 611, 1014, 1038.
Winchcomb, Sir H. 285, 316, 317, 372, 433, 460, 490, 491, 512, 517, 519, 978.
Winchester, Marquis of, 299, 412.
Winchester, Bishop of, (Dr. Stillingfleet), 842.
Winnington, Sir F. 761, 794, 804, 831, 1012, 1096.
Wogan, Mr. 174, 183, 346.
Wywell, Sir Marmaluke, 1040.

Y.

Yonge, Sir Walter, 323, 368, 509, 859.

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Parliamentary History.

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COBBETT'S

Parliamentary History.

4 James II. A. D. 1688.

The Prince of Orange's First Declaration.] October 10, 1688. While James the Second was labouring under great difficulties and distractions, providing for his security, and endeavouring to remove the fears and jealousies of his Protestant subjects, the Prince of Orange was embarking his troops with extraordinary diligence; and, to justify his undertaking to the world, he, this day, set forth the following Declaration:

"It is both certain and evident to all men, that the public peace and happiness of any state or kingdom cannot be preserved, where the Laws, Liberties, and Customs, established by the lawful authority in it, are openly transgressed and annulled; more especially where the alteration of Religion is endeavoured, and that a religion, which is contrary to law, is endeavoured to be introduced; upon which those who are most immediately concerned in it are indispensably bound to endeavour to preserve and maintain the established Laws, Liberties and Customs, and, above all, the Religion and Worship of God, that is established among them; and to take such an effectual care, that the inhabitants of the said state or kingdom may neither be deprived of their Religion, nor of their Civil Rights: which is so much the more necessary, because the greatness and security both of kings, royal families, and of all such as are in authority, as well as the happiness of their subjects and people, depend in a most especial manner upon the exact observation and maintenance of these their Laws, Liberties and Customs.—Upon these Grounds it is that we cannot any longer forbear to declare, that, to our great regret, we see, that those Counsellors, who have now the chief credit with the king, have overturned the Religion, Laws and Liberties of those realms, and subjected them, in all things relating to their Consciences, Liberties and Properties, to arbitrary Government; and that, not only by secret and indirect ways, but in an open and undisguised manner.—Those evil Counsellors, for the advancing and colouring this with some plausible pretexts, did invent and set on foot the king's Dispensing Power; by virtue of which they pretend, that, according to law, he can suspend and dispense with the execution of the laws, that have been enacted by the authority of the king and parliament, for the security and happiness of the subject; and so have rendered those laws of no effect: though there is nothing more certain, than that, as no laws can be made but by the joint concurrence of king and parliament, so likewise laws so enacted, which secure the public peace and safety of the nation, and the Lives and Liberties of every subject in it, cannot be repealed or suspended but by the same authority.—For though the king may pardon the punishment that a transgressor has incurred, and to which he is condemned; as in cases of treason or felony; yet it cannot be, with any colour of reason, inferred from thence, that the king can entirely suspend the execution of those Laws relating to Treason or Felony, unless it is pretended, that he is cloathed with a despotic and arbitrary power, and that the Lives, Liberties, Honours, and Estates of the subjects, depend wholly on his good-will and pleasure, and are entirely subject to him; which must infallibly follow on the king's having a Power to suspend the execution of laws, and to dispense with them.—Those evil Counsellors, in order to the giving some credit to this strange and execrable maxim, have so conducted the matter, that they have obtained a Sentence from the Judges, declaring, that this Dispensing Power is a Right belonging to the crown; as if it were in the power of the Twelve Judges to offer up the Laws, Rights, and Liberties of the whole nation to the king, to be disposed of by him arbitrarily, and at his pleasure, and expressly contrary to laws enacted for the security of the subjects. In order to the obtaining this judgment, those evil Counsellors did, beforehand, examine secretly the opinion of the Judges, and procured such of them, as could not in

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conscience concur in so pernicious a Sentence, to be turned out, and others to be substituted in their rooms, till, by the changes which were made in the courts of judicature, they at last obtained that judgment. And they have raised some to those trusts, who make open profession of the Popish Religion, though those are by law rendered uncapable of all such employments.—It is also manifest and notorious, that, as his majesty was, upon his coming to the crown, received and acknowledged by all the subjects of England, Scotland, and Ireland, as their king, without the least opposition, though he made then open profession of the Popish Religion, so he did then promise and solemnly swear at his coronation, that he would maintain his subjects in the free enjoyment of their laws, rights, and liberties; and in particular, that he would maintain the Church of England, as it was established by law. It is likewise certain, that there have been, at divers and sundry times, several laws enacted for the preservation of those Rights and Liberties, and of the Protestant Religion; and, among other Securities, it has been enacted, That all persons whatsoever, that are advanced to any Ecclesiastical dignity, or to bear office in either University, as likewise all others that should be put in any employment civil or military, should declare, that they were not Papists, but were of the Protestant Religion, and that, by their taking of the Oaths of Allegiance and Supremacy, and the Test: yet these evil Counsellors have, in effect, annulled and abolished all those laws, both with relation to Ecclesiastical and Civil Employments.—In order to Ecclesiastical Dignities and Offices, they have, not only without any colour of law, but against most express laws to the contrary, set up a Commission of a certain number of persons, to whom they have committed the cognisance and direction of all Ecclesiastical matters; in the which commission there has been, and still is, one of his majesty's ministers of state, who makes now public profession of the Popish Religion; and who, at the time of his first professing it, declared, that for a great while before he had believed that to be the only true Religion. By all this, the deplorable state to which the Protestant Religion is reduced is apparent, since the affairs of the Church of England are now put into the hands of persons, who have accepted of a Commission that is manifestly illegal, and who have executed it contrary to all law; and that now one of their chief members has abjured the Protestant Religion, and declared himself a Papist; by which he is become incapable of holding any public employment. The said Commissioners have hitherto given such proof of their submission to the directions given them, that there is no reason to doubt, but they will still continue to promote all such designs, as will be most agreeable to them. And those evil Counsellors take care to raise none to any Ecclesiastical Dignities but persons, that have no zeal for the Protestant Religion, and that now hide their unconcernedness for it under the specious pretence of moderation. The said Commissioners have suspended the bishop of London, only because he refused to obey an order, that was sent him to suspend a worthy divine, without so much as citing him before him to make his own defence, or observing the common forms of process. They have turned out a President chosen by the Fellows of Magdalen College, and afterwards all the fellows of that college, without so much as citing them before any court that could take legal cognisance of that affair, or obtaining any Sentence against them by a competent judge: and the only reason that was given for turning them out, was, their refusing to choose for their President a person that was recommended to them by the instigation of those evil Counsellors, though the right of a free election belonged undoubtedly to them; but they were turned out of their Freeholds, contrary to law, and to that express provision in Magna Charta, That no man shall lose life or goods but by the law of the land: and now these evil Counsellors have put the said College wholly into the hands of the Papists; though, as is above said, they are incapable of all such employments, both by the law of the land, and the statutes of the college. These commissioners have also cited before them all the chancellors and archdeacons of England, requiring them to certify to them the names of all such clergymen as have read the king's Declaration for Liberty of Conscience, and of such as have not read it, without considering that the reading of it was not injoined the Clergy by the Bishops, who are their Ordinaries. The illegality and incompetency of the said court of the Ecclesiastical Commissioners was so notoriously known, did so evidently appear, that it tended to the subversion of the Protestant Religion, that the most reverend father in God William archbishop of Canterbury, primate and metropolitan of England, seeing that it was raised for no other end but to oppress such persons who were of eminent virtue, learning and piety, refused to sit or to concur in it.—And, though there are many express laws against all Churches or Chapels for the exercise of the Popish Religion, and also against all Monasteries and Convents, and more particularly against the Order of the Jesuits; yet those evil Counsellors have procured Orders for the Building of several Churches and Chapels for the exercise of that Religion: they have also procured divers Monasteries to be erected; and, in contempt of the law, they have not only set up several Colleges of Jesuits in divers places, for corrupting of the youth, but have raised up one of the Order to be a privy counsellor, and a minister of state: by all which they do evidently shew, that they are restrained by no rules or law whatsoever; but that they have subjected the honours and estates of the subjects, and the Established Religion, to a despotick power, and to arbitrary government: in all which they are served and

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seconded by those Ecclesiastical Commissioners.—They have also followed the same methods with relation to Civil affairs; for they have procured orders to examine all lords lieutenants, deputy lieutenants, sheriffs, justices of the peace, and also all others that were in any public employment, if they would concur with the king in the repeal of the Test and the Penal Laws: and all such whose consciences did not suffer them to comply with their designs, were turned out, and others were put in their places, who they believed would be more compliant to them in their designs of defeating the intent and execution of those laws which had been made with so much care and caution for the Security of the Protestant Religion: and in many of these places they have put professed Papists; though the law has disabled them, and warranted the subjects not to have any regard to their orders.—They have also invaded the Privileges, and seized on the Charters of most of those Towns that have a right to be represented by their burgesses in parliament, and have secured Surrenders to be made of them; by which the magistrates in them have delivered up all their Rights and Privileges to be disposed of at the pleasure of those evil Counsellors; who have thereupon placed new magistrates in those Towns, such as they can most entirely confide in; and in many of them they have put Popish magistrates, notwithstanding the incapacities under which the law has put them.—And whereas no nation whatsoever can subsist without the administration of good and impartial justice, upon which mens lives, liberties, honours and estates do depend; those evil Counsellors have subjected these to an arbitrary and despotic power. In the most important affairs they have studied to discover beforehand the opinions of the Judges, and have turned out such as they found would not conform themselves to their intentions; and have put others in their places of whom they were more assured, without having any regard to their abilities: and they have not stuck to raise even professed Papists to the Courts of Judicature, notwithstanding their incapacity by law, and that no regard is due to any Sentences flowing from them. They have carried this so far, as to deprive such Judges, who, in the common administration of justice, shew, that they were governed by their consciences, and not by the directions which the others gave them: by which it is apparent, that they design to render themselves the absolute masters of the lives, honours and estates of the subjects, of what rank or dignity soever they may be; and that, without having any regard either to the equity of the cause, or to the consciences of the judges; whom they will have to submit in all things to their own will and pleasure: hoping by such ways to intimidate those other judges, who are yet in employment; as also such others as they shall think fit to put in the rooms of those whom they have turned out; and to make them see, what they must look for, if they should at any time act in the least contrary to their good-liking; and that no failings of that kind are pardoned in any persons whatsoever. A great deal of blood has been shed in many places of the kingdom, by Judges, governed by those evil Counsellors, against all the rules and forms of law; without so much as suffering the persons that were accused, to plead in their own defence.—They have also, by putting the Administration of justice in the hands of Papists, brought all the matters of Civil Justice into great uncertainties, with how much exactness and justice soever that these Sentences may have been given: for, since the laws of the land do not only exclude Papists from all places of judicature, but have put them under an incapacity, none are bound to acknowledge or obey their judgments; and all Sentences given by them are null and void of themselves: so that all persons, who have been cast in trials before such Popish Judges, may justly look on their pretended Sentences as having no more force than the sentences of any private and unauthorized person whatsoever: so deplorable is the case of the subjects, who are obliged to answer to such Judges, that must in all things stick to the rules, which are set them by those evil Counsellors; who, as they raised them up to those employments, so can turn them out of them at pleasure; and who can never be esteemed lawful Judges: so that all their Sentences are, in the construction of the law, of no force and efficacy. They have likewise disposed of all Military Employments in the same manner; for, though the laws have not only excluded Papists from all such employments, but have, in particular, provided, that they should be disarmed; yet they, in contempt of those laws, have not only armed the Papists, but have likewise raised them up to the greatest military trusts, both by sea and land; and that, strangers as well as natives, and Irish as well as English; that so, by these means, they having rendered themselves masters both of the Affairs of the Church, of the Government of the Nation, and of the Course of Justice, and subjected them all to a despotic and arbitrary Power, they might be in a capacity to maintain and execute their wicked designs by the assistance of the Army, and thereby to enslave the nation.—The dismal effects of this Subversion of the Established Religion, Laws and Liberties in England, appear more evidently to us by what we see done in Ireland; where the whole government is put in the hands of Papists; and where all the Protestant inhabitants are under the daily fears of what may be justly apprehended from the arbitrary power which is set up there: which has made great numbers of them leave that kingdom, and abandon their estates in it; remembering well that cruel and bloody Massacre which fell out in that Island in the year 1641.—Those evil Counsellors have also prevailed with the king to declare in Scotland, that he is cloathed with absolute power, and that all the subjects are bound to obey him

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without reserve; upon which he has assumed an arbitrary power, both over the Religion and Laws of that kingdom. From all which it is apparent, what is to be looked for in England, as soon as matters are duly prepared for it.—Those great and insufferable Oppressions, and the open contempt of all law, together with the apprehensions of the sad consequences that must certainly follow upon it, have put the subjects under great and just Fears, and have made them look after such lawful Remedies as are allowed of in all nations: yet all has been without effect. And those evil Counsellors have endeavoured to make all men to apprehend the loss of their Lives, Liberties, Honours and Estates, if they should go about to preserve themselves from this oppression by Petitions, Representations, or other means authorized by law. Thus did they proceed with the archbishop of Canterbury, and the other bishops; who, having offered a most humble Petition to the king, in terms full of respect, and not exceeding the number limited by law, (in which they set forth, in short, the Reasons for which they could not obey that Order, which by the instigation of those evil Counsellors was sent them, requiring them to appoint their Clergy to read in their Churches the Declaration for Liberty of Conscience) were sent to prison, and afterwards brought to a Trial, as if they had been guilty of some enormous crime. They were not only obliged to defend themselves in that pursuit, but to appear before professed Papists, who had not taken the Test, and by consequence were men whose interest led them to condemn them: and the Judges that gave their opinions in their favours were thereupon turned out.—And yet it cannot be pretended, that any kings, how great soever their power has been, and how arbitrary and despotic soever they have been in the exercise of it, have ever reckoned it a crime for their subjects to come, in all submission and respect, and in a due number not exceeding the limits of the law, and represent to them the Reasons that made it impossible for them to obey their orders. Those evil Counsellors have also treated a peer of the realm as a criminal, only because he said that the subjects were not bound to obey the orders of a Popish Justice of Peace; though it is evident, that, they being by law rendered incapable of all such trust, no regard is due to their orders; this being the Security, which the people have by the law, for their Lives, Liberties, Honours and Estates, that they are not to be subjected to the arbitrary proceedings of Papists, that are, contrary to law, put into any employments civil or military.—Both We ourselves, and our dearest and most entirely beloved Consort the Princess, have endeavoured to signify in terms full of respect to the king, the just and deep regret which all these proceedings have given us; and, in compliance with his majesty's Desires, signified to us, we declared, both by word of mouth to his envoy, and in writing, what our thoughts were, touching the Repealing of the Test and Penal Laws; which we did in such a manner, that we hoped we had proposed an expedient, by which the peace of those kingdoms, and a happy agreement among the subjects of all persuasions, might have been settled; but those evil Counsellors have put such ill constructions on those our good intentions, that they have endeavoured to alienate the king more and more from us, as if we had designed to disturb the happiness and quiet of the kingdom.—The last and great Remedy for all those evils is the calling of a Parliament, for securing the nation against the evil practices of those wicked Counsellors; but this could not be yet compassed, nor can it be easily brought about: for those men apprehending, that a lawful Parliament being once assembled, they would be brought to an account for all their open violations of law, and for their Plots and Conspiracies against the Protestant Religion, and the Lives and Liberties of the Subjects, they have endeavoured, under the specious pretence of Liberty of Conscience, first to sow divisions amongst Protestants, between those of the Church of England and the Dissenters; the design being laid, to engage Protestants that are all equally concerned to preserve themselves from Popish oppression, into mutual quarrellings, that so, by these, some advantages might be given to them to bring about their designs; and that, both in the Election of the Members of Parliament, and afterwards in the Parliament itself: for they see well that if all Protestants could enter into a mutual good understanding one with another, and concur together in the preserving of their Religion, it would not be possible for them to compass their wicked ends. They have also required all the persons in the several counties of England, that either were in any employment, or were in any considerable esteem, to declare beforehand, that they would concur in the Repeal of the Test and Penal Laws; and that they would give their voices in the Elections to Parliament only for such as would concur in it. Such as would not thus preengage themselves were turned out of all employments; and others who entered into those Engagements were put in their places, many of them being Papists. And, contrary to the Charters and Privileges of those Boroughs that have a right to send burgesses to parliament, they have ordered such Regulations to be made, as they thought fit and necessary for assuring themselves of all the members that are to be chosen by those Corporations: and by this means they hope to avoid that punishment which they have deserved; though it is apparent, that all acts made by Popish Magistrates are null and void of themselves: so that no parliament can be lawful, for which the elections and returns are made by Popish sheriffs and mayors of towns: and therefore as long as the authority and magistracy is in such hands, it is not possible to have any lawful parliament. And though, according to

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the constitution of the English government, and immemorial custom, all Elections of parliament-men ought to be made with an entire liberty, without any sort of force, or the requiring the electors to choose such persons as shall be named to them; and the persons thus freely elected ought to give their opinions freely upon all matters that are brought before them, having the good of the nation ever before their eyes, and following in all things the dictates of their conscience; yet now, the people of England cannot expect a Remedy from a free parliament legally called and chosen; but they may perhaps see one called, in which all Elections will be carried on by fraud or force; and which will be composed of such persons of whom those evil Counsellors hold themselves well assured, in which all things will be carried on according to their direction and interest, without any regard to the good or happiness of the nation: which may appear evidently from this, that the same persons tried the members of the last parliament, to gain them to consent to the Repeal of the Test and Penal Laws; and procured that parliament to be dissolved, when they found, that they could not, neither by promises nor threatenings, prevail with the members to comply with their wicked designs.—But, to crown all, there are great and violent presumptions inducing us to believe, that those evil Counsellors, in order to the carrying on of their ill designs, and to the gaining to themselves the more time for the effecting of them, for the encouraging of their complices, and for the discouraging of all good subjects, have published, that the Queen hath brought forth a Son; though there hath appeared, both during the Queen's pretended bigness, and in the manner in which the Birth was managed, so many just and visible grounds of suspicion, that not only we ourselves, but all the good subjects of those kingdoms, do vehemently suspect, that the pretended Prince of Wales was not born by the Queen. And it is notoriously known to all the world, that many both doubted of the Queen's bigness, and of the birth of the child; and yet there was not any one thing done to satisfy them, or to put an end to their doubts.—And since our dearest and most entirely beloved Consort the Princess, and likewise ourselves, have so great an interest in this matter, and such a right, as all the world knows, to the Succession to the Crown; since also the English did, in the year 1672, when the States General of the United Provinces were invaded in a most unjust war, use their utmost endeavours to put an end to that war, and that in opposition to those who were then in the government; and by their so doing, they run the hazard of losing both the favour of the court and their employments; and since the English nation has ever testified a most particular affection and esteem, both to our dearest Consort the Princess, and to ourselves; we cannot excuse ourselves from espousing their interests in a matter of such high consequence; and from contributing all that lies in us for the maintaining, both of the Protestant Religion, and of the Laws and Liberties of those kingdoms; and for the securing to them the continual enjoyment of all their just Rights: to the doing of which we are most earnestly solicited by a great many lords, both spiritual and temporal, and by many gentlemen, and other subjects of all ranks.—Therefore it is, that we have thought fit to go over to England, and to carry over with us a force sufficient, by the blessing of God, to defend us from the violence of those evil Counsellors; and we, being desirous that our intention in this may be rightly understood, have, for this end, prepared this Declaration, in which we have hitherto given a true account of the Reasons inducing us to it; so we now think fit to declare, that this our Expedition is intended for no other design, but to have a free and lawful Parliament assembled as soon as is possible; and that in order to this, all the late Charters, by which the elections of burgesses are limited contrary to the ancient custom, shall be considered as null and of no force; and likewise, all magistrates, who have been unjustly turned out, shall forthwith resume their former employments; as well as all the boroughs of England shall return again to their ancient Prescriptions and Charters; and more particularly, that the ancient Charter of the great and famous city of London, shall again be in force; and that the Writs for the members of Parliament shall be addressed to the proper officers, according to law and custom; that also none be suffered to choose or to be chosen members of parliament, but such as are qualified by law; and that the members of parliament being thus lawfully chosen, they shall meet and sit in full freedom, that so the two houses may concur in the preparing of such Laws as they, upon full and free debate, shall judge necessary and convenient, both for the confirming and executing the law concerning the Test, and such other laws as are necessary for the security and maintenance of the Protestant Religion; as likewise for making such Laws as may establish a good agreement between the Church of England and all Protestant Dissenters; as also, for the covering and securing of all such who would live peaceably under the government, as becomes good subjects, from all persecution upon the account of their Religion, even Papists themselves not excepted; and for the doing of all other things, which the two houses of parliament shall find necessary for the peace, honour and safety of the nation, so that they may be in no more danger of the nation's falling at any time hereafter under arbitrary government. To this Parliament we will also refer the inquiry into the Birth of the pretended Prince of Wales, and of all things relating to it, and to the Right of Succession.—And we, for our part, will concur in every thing that may procure the peace and happiness of the nation, which a free and lawful Parliament shall determine; since we have

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nothing before our eyes, in this our undertaking, but the preservation of the Protestant Religion, the covering of all men from Persecution for their Consciences, and the securing to the whole nation the free enjoyment of their Laws, Rights and Liberties, under a just and legal government.—This is the Design that we have purposed to ourselves in appearing upon this occasion in arms; in the conduct of which, we will keep the Forces under our command under all strictness of martial discipline, and take a special care, that the people of the countries through which we must march shall not suffer by their means; and, as soon as the state of the nation will admit of it, we promise, that we will send back all those foreign forces that we have brought along with us.—We do therefore hope, that all people will judge rightly of us, and approve of these our proceedings: but we chiefly rely on the blessing of God, for the success of this our undertaking, in which we place our whole and only confidence.—We do, in the last place, invite and require all persons whatsoever, all the peers of the realm, both spiritual and temporal, all lords lieutenants, deputy lieutenants, and all gentlemen, citizens, and other commons of all ranks, to come and assist us, in order to the executing of this our Design, against all such as shall endeavour to oppose us, that so we may prevent all those miseries which must needs follow upon the nation's being kept under arbitrary government and slavery, and that all the violences and disorders, which may have overturned the whole Constitution of the English government, may be fully redressed, in a free and legal Parliament.—And we do likewise resolve, as soon as the nations are brought to a state of quiet, we will take care that a Parliament shall be called in Scotland, for the restoring the ancient constitution of that kingdom; and for bringing the Matters of Religion to such a Settlement, that the people may live easy and happy; and for putting an end to all the unjust violences that have been in a course of so many years committed there.—We will also study to bring the kingdom of Ireland to such a state, that the Settlement there may be religiously observed; and that the Protestant and British interest there may be secured. And we will endeavour, by all possible means, to procure such an Establishment in all the three kingdoms, that they may all live in a happy union and correspond together; and that the Protestant Religion, and the Peace, honour, and happiness of these nations may be established upon lasting foundations.—Given under our hand and seal, at our court in the Hague, the 10th day of October, in the year 1688. WILLIAM HENRY, Prince of ORANGE."

The Prince of Orange's Additional Declaration.] The above Declaration was printed and ready to be sent over to England, together with another to the same effect for Scotland; when his highness being informed that king James had taken measures to render it ineffectual, caused the following Addition to be made to it:

"After we had prepared and printed this our Declaration, we have understood, that the Subverters of the Religion and Laws of those kingdoms, hearing of our Preparations to assist the people against them, have begun to retract some of the arbitrary and despotic powers that they had assumed, and to vacate some of their unjust Judgments and Decrees. The sense of their guilt, and the distrust of their force, have induced them to offer to the city of London, some seeming relief from their great oppressions; hoping thereby to quiet the people, and to divert them from demanding a secure re-establishment of their Religion and Laws under the shelter of our arms. They do also give out, that we intend to conquer and enslave the nation: and therefore it is, that we have thought fit to add a few words to our Declaration.—We are confident, that no persons can have such hard thoughts of us, as to imagine that we have any other design in this undertaking, than to procure a Settlement of the Religion, and of the Liberties and Properties of the subjects upon so sure a foundation, that there may be no danger of the nation's relapsing into the like miseries at any time hereafter. And as the Forces that we have brought along with us, are utterly disproportioned to that wicked design of conquering the nation, if we were capable of intending it, so the great numbers of the principal nobility and gentry, that are men of eminent quality and estates, and persons of known integrity and zeal, both for the Religion and Government of England; many of them being also distinguished by their constant fidelity to the crown, who do both accompany us in this Expedition, and have earnestly solicited us to it, will cover us from all such malicious insinuations. For it is not to be imagined, that either those who have invited us, or those who are already come to assist us, can join in a wicked attempt of conquest, to make void their own lawful titles to their honours, estates and interests. We are also confident, that all men see how little weight there is to be laid on all promises and engagements that can be now made; since there has been so little regard had in time past to the most solemn promises. And as that imperfect redress that is now offered, is a plain confession of those violations of the government that we have set forth, so the defectiveness of it is no less apparent; for they lay down nothing which they may not take up at pleasure; and they reserve entire, and not so much as mentioned, their claims and pretences to an arbitrary and despotic power; which has been the root of all their oppression, and of the total subversion of the government. And it is plain, that there can be no Redress nor Remedy offered but in parliament; by a Declaration of the Rights of the subjects that have been invaded; and not by any pretended Acts of Grace, to which the extremity of their affairs has driven them. Therefore it is that we have thought fit to declare, that we will refer all to a free Assembly of the nation, in a lawful Par-

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liament.—Given under our hand and seal, at our court in the Hague, the 24th day of Oct. in the year 1688. WILLIAM HENRY, Prince of ORANGE."

A counterfeit Declaration published in the Prince's Name.] Besides the above, a spurious Declaration* was published in the Prince's name, which is said to have produced a considerable effect. It was as follows:

"We have in the whole course of our life, and more particularly by the apparent hazards both by sea and land, to which we have so lately exposed our person, given to the world so high and undoubted proofs of our fervent zeal to the Protestant Religion, that we are fully confident no true Englishman and good Protestant can entertain the least suspicion of our firm resolution, rather to spend our dearest blood, and perish in the attempt, than not to carry on the blessed and glorious design, which, by the favour of Heaven, we have so successfully begun, to rescue England, Scotland and Ireland from Popery and Slavery, and in a free parliament to establish the Religion, the Laws and Liberties of these kingdoms on such a sure and lasting foundation, that it shall not be in the power of any prince for the future to introduce Popery and Tyranny.—Towards the more easy compassing this great design, we have not been hitherto deceived in the just expectation we had of the concurrence of the nobility, gentry, and people of England with us, for the security of their Religion, and the establishment of their Liberties and Properties. Great numbers of all ranks and qualities have joined themselves to us; and others, at great distances from us, have taken up arms and declared for us: and, which we cannot but particularly mention, in that Army which was raised to be the instrument of Slavery and Popery, many, by the special providence of God, both officers and common soldiers, have been touched with such a feeling sense of religion and honour, and of true affection to their native country, that they have already deserted the illegal service they were engaged in, and have come over to us, and have given us full assurance from the rest of the army, that they will certainly follow this example, as soon as we shall approach near enough to receive them without hazard of being prevented or betrayed.—To which end, and that we may the sooner execute this just and necessary Design we are engaged in for the public safety and deliverance of these nations, we are resolved with all possible diligence to advance forwards, that a free Parliament may be forthwith called, and such preliminaries adjusted with the king, and all things settled upon such a foot, according to law, as may give us and the whole nation just reason to believe, the king is disposed to make such necessary condescensions on his part, as will give entire satisfaction and security to all, and make both king and people once more happy. And that we may effect all this, in the way most agreeable to our desires, if it be possible, without the effusion of blood, except of those execrable criminals who have justly forfeited their lives for betraying the Religion, and subverting the laws of their native country, we do think fit to declare, that as we will offer no violence to any, but in our own necessary defence, so we will not suffer any injury to be done to the person, even of any Papist, provided he be found in such place, and condition, and circumstances as the law requires. So we are resolved, and do declare, that all Papists who shall be found in open arms, or with arms in their houses, or about their persons, or in any office civil or military, upon any pretence whatsoever, contrary to the known laws of the land, shall be treated by us and our forces, not as soldiers and gentlemen, but as robbers, free-booters and banditti; they shall be incapable of quarter, and entirely delivered up to the discretion of our soldiers. We do farther declare, that all persons who shall be found any ways aiding or assisting to them, or shall march under their command, or shall join with, or submit to them in the discharge or execution of their illegal commissions or authority, shall be looked upon as partakers of their crimes, enemies to the laws, and to their country.—And whereas we are certainly informed, that great numbers of armed Papists have of late resorted to London and Westminster, and parts adjacent, where they remain, as we have reason to suspect, not so much for their own security, as out of a wicked and barbarous design, to make some desperate attempt upon the said cities, and their inhabitants, by fire, or sudden massacre, or both; or else to be more ready to join themselves to a body of French troops designed, if it be possible, to land in England, procured of the French king, by the interest and power of the Jesuits, in pursuance of the engagements, which, at the instigation of that pestilent society, his most Christian majesty, with one of his neighbouring princes of the same communion, has entered into for the utter extirpation of the Protestant Religion out of Europe. Though we hope we have taken such effectual care to prevent the one, and secure the other, that, by God's assistance, we

* "This was the boldest attempt that ever was made by a private person; and was supposed to have been done by Ferguson or Johnson; but of late Mr. Hugh Speke has assumed the honour of it to himself: a thing which we know not how fully to believe, or wholly to contradict. But, whoever was the author of this Declaration, which the prince of Orange totally disowned, it did his highness no small service at this nice juncture: the Roman Catholics were dreadfully alarmed at it; and several justices of the peace caused it to be published. A certain captain likewise boldly delivered a copy of it to the lord mayor of London, charging him, before witnesses, to see it exactly put in execution; and the inferior officers of justice desired his lordship's assistance, that they might better obey his highness's orders." Echard.

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cannot doubt but we shall defeat all their wicked enterprizes and designs.—We cannot however forbear, out of the great and tender concern we have to preserve the people of England, and particularly those great and popular cities, from the cruel rage and bloody revenge of the Papists, to require and expect from all the lord-lieutenants, deputy-lieutenants, and justices of the peace, lord mayors, mayors, sheriffs, and all other magistrates and officers, civil and military, of all counties, cities and towns of England, especially of the county of Middlesex, and cities of London and Westminster, and parts adjacent, that they do immediately disarm and secure, as by law they may and ought, within their respective counties, cities and jurisdictions, all Papists whatsoever, as persons at all times, but now especially, most dangerous to the peace and safety of the government, that so, not only all power of mischief may be taken from them, but that the laws, which are the greatest and best security, may resume their force, and be strictly executed. And we do hereby likewise declare, that we will protect and defend all those who shall not be afraid to do their duty in obedience to these laws. And that for those magistrates and others, of what condition soever they be, who shall refuse to assist us, and, in obedience to the laws, to execute rigorously, what we have required of them, and suffer themselves, at this juncture, to be cajoled and terrified out of their duty, we will esteem them the most criminal and infamous of all men; betrayers of their religion, the laws, and their native country; resolving to expect and require at their hands the life of every single Protestant that shall perish, and every house that shall be burnt or destroyed by their treachery and cowardice.—Given under our Hand and Seal, at our Head Quarters at Sherborn-Castle, the 28th of Nov. 1688. WILLIAM HENRY, Prince of Orange."

The King's Answer to the Prince of Orange's Declaration.] On the 5th of Nov. the Prince of Orange landed at Torbay; soon after which, the King set forth the following Answer to his Declaration:

"That it was but too evident, by a late Declaration published by the Prince of Orange, that, notwithstanding the many specious and plausible pretences it carries, his Designs in the bottom did tend to nothing less than an absolute usurping of his majesty's crown and royal authority, as might fully appear by his assuming to himself in the said Declaration the regal style, requiring the peers of the realm, both spiritual and temporal, and all other persons of all degrees, to obey and assist him in the execution of his designs; a prerogative inseparable from the imperial crown of this realm: adding, that, for a more undeniable proof of his immoderate ambition, and which nothing could satisfy but the immediate possession of the crown itself, he called in question the legitimacy of the prince of Wales, his majesty's son and heir apparent; though by the providence of God, there were present at his birth so many witnesses of unquestionable credit, as if it seemed the peculiar care of heaven, on purpose to disappoint so wicked and unparalleled an attempt. That, in order to the effecting his ambitious designs, he seemed desirous to submit all to a free Parliament, hoping thereby to ingratiate himself with the people; though nothing was more evident than that a parliament could not be free so long as there was an Army of Foreigners in the heart of his majesty's kingdoms, so that in truth he was the sole obstructer of such a Free Parliament. His majesty being fully resolved, as he had already declared, so soon as by the blessing of God his kingdom should be delivered from this invasion, to call a Parliament, which could no longer be liable to the least objection of not being freely chosen, since his majesty had actually restored all the boroughs and corporations to their ancient rights and privileges. Upon which considerations, and the obligations of their duty and natural obedience, his majesty could no ways doubt, but that all his faithful and loving subjects would readily and heartily concur and join with him in the entire suppressing and repelling of his enemies and rebellious subjects."

The Petition of several Lords to the King for calling a Parliament.] Soon after this, most of the Protestant lords, both spiritual and temporal, who were then in London, namely, the abp. of Canterbury, the abp. of York elect, the bishops of St. Asaph, Ely, Rochester, Peterborough and Oxford; the dukes of Grafton and Ormond; the earls of Dorset, Clare, Clarendon, Burlington, Anglesey and Rochester; viscount Newport, and the lords Paget, Chandois and Ossulston, drew up a Petition, which was considered, agreed on, and signed at the bishop of Rochester's house at Westminster. And, though they had heard that his majesty had protested, he would take it highly ill of any man that should offer him a thing of that nature, yet the two archbishops, with the bishops of Ely and Rochester, ventured to deliver it. The Petition runs in these words:

"May it please your majesty; We your majesty's most loyal subjects, in the deep sense of the miseries of a war, now breaking forth in the bowels of your kingdom, and of the danger to which your majesty's sacred person is thereby like to be exposed, as also of the distractions of your people by reason of the present Grievances, do think ourselves bound in conscience of the duty we owe to God and our holy Religion, to your majesty and our country, most humbly to offer to your maj. that in our opinion, the only visible way to preserve your majesty, and this your kingdom, would be the Calling of a Parliament, regular and free in all its circumstances. We therefore most earnestly beseech your majesty, that you would be graciously pleased with all speed to call such a parliament; wherein we shall be most ready to promote such councils and resolutions of Peace and Settlement in Church and State, as may

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conduce to your majesty's honour and safety, and to the quieting the minds of your people. We do likewise humbly beseech your majesty, in the mean time, to use such means [viz. a Treaty with the Prince, and those who had declared for him] for the preventing the effusion of Christian blood, as to your majesty shall seem most meet."

The King's Answer.] This Petition was printed, and two days after, the king set forth the following Answer:

"My Lords; What you ask of me, I most passionately desire; and I promise upon the faith of a king, that I will have a Parliament, and such a one as you ask for, as soon as ever the prince of Orange has quitted this realm: for how is it possible a parliament should be free in all its circumstances, as you petition for, while an enemy is in the kingdom, and can make a return of near a hundred voices?"

Lord Devonshire's Paper.] The sense of the nation at this alarming period may be collected from the two following Papers, the first of which was delivered to the mayor of Derby by the earl of Devonshire, and the second was subscribed by a great number of the nobility, gentry, &c. at Nottingham.

"That as with grief they apprehended the calamities that might arise from the landing of a foreign army in this kingdom, so they could not but deplore the occasion given for it, by so many invasions made of late years on their Religion and Laws. And, whereas they could not think of any other expedient to compose their differences, and prevent effusion of blood, than that which procured a Settlement in these kingdoms, after the late Civil Wars, viz. the meeting and sitting of a Parliament, freely and duly chosen, they thought themselves obliged, as far as in them lay, to promote it; and the rather, because the Prince of Orange, as appeared by his Declaration, was willing to submit his own pretensions, and all other matters, to their determination. They heartily wished, and humbly prayed, that his majesty would consent to this expedient, in order to a future Settlement, and hoped that such a temperament might be thought of, as that the army then on foot might not give any interruption to the proceedings of a parliament. But if, to the great misfortune and ruin of these kingdoms, it should prove otherwise, they farther declared, that they would to their utmost defend the Protestant Religion, the laws of the kingdom, and the Rights and Liberties of the subject."

The Nottingham Paper.] "That not being willing to deliver their posterity over to such a condition of Popery and Slavery, as their oppressions inevitably threatened, they would, to the utmost of their power, oppose the same, by joining with the Prince of Orange, for the recovery of their almost ruined laws, liberties and Religion. And herein they hoped all good Protestant subjects would, with their lives and fortunes, be assistant to them, and not be bugbeared with the opprobrious terms of rebels, by which the court would fright them, to become perfect slaves to their tyrannical insolences and usurpations. For they assured themselves, that no rational and unbiassed person would judge it Rebellion to defend their Laws and Religion, which all English princes have sworn at their coronation; which oath, how well it had been observed of late, they desired a free Parliament might have the consideration of. They indeed owned it rebellion to resist a king that governed by law; but he was always accounted a tyrant that made his will his law; and to resist such an one they justly esteemed no rebellion, but a necessary defence: and on this consideration they doubted not of all honest men's assistance, and humbly hoped for, and implored the great God's protection, that turned the hearts of people as pleased him best; it having been observed, that people could never be of one mind without his inspiration, which had in all ages confirmed that observation, 'Vox populi est vox Dei."

The King's Proclamation declaring a general Pardon.] Soon after this, the ruinous state of the king's affairs produced the following Proclamation: "That for the Security of all persons both in their elections and service in Parliament, notwithstanding they had taken up arms, or committed any act of hostility, or been any way aiding or assisting therein: and for the better assurance thereof, his majesty had directed a General Pardon to all his subjects to be forthwith prepared to pass his great seal. And for the reconciling all the public breaches, and obliterating the very memory of all past miscarriages, his majesty did hereby exhort, and kindly admonish all his loving subjects, to dispose themselves to elect such persons for their representatives in Parliament, as might not be biassed by prejudice or passion, but qualified with parts, experience and prudence, proper for this conjuncture."

The King's Proposals to the Prince of Orange.] What followed next, were the Proposals in behalf of the king, by the lords Halifax, Nottingham and Godolphin, to the prince of Orange, viz:

"Sir; The king commanded us to acquaint you, that he observeth all the difference and causes of complaint, alledged by your highness, seem to be referred to a free Parliament. His majesty, as he hath already declared, was resolved before this to call one; but thought, that, in the present state of affairs, it was adviseable to defer it till things were more composed; yet, seeing that his people still continue to desire it, he hath put forth his Proclamation in order to it, and hath issued his writs for the calling of it. And to prevent any cause of interruption in it, he will consent to every thing that can be reasonably required for the security of those that shall come to it. His majesty hath therefore sent us to attend your highness for the adjusting of all matters that shall be agreed to be necessary to the freedom of elections, and the security of sitting, and is ready immediately to enter into a treaty in

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order to it. His majesty proposes, that, in the mean time, the respective armies may be restrained within such limits, and at such a distance from London, as may prevent the apprehensions that the parliament may be in any kind disturbed; being desirous that the meeting of it may be no longer delayed, than it must be, by the usual and necessary forms."

His Highness's Answer.] To which the Prince gave the following Answer:

"We, with the advice of the lords and gentlemen assembled with us, have, in Answer, made these following Proposals. 1. That all Papists, and all such persons as are not qualified by law, be disarmed, disbanded, and removed from all employments, civil and military. 2. That all Proclamations which reflect upon us, be recalled; and that if any persons, for having assisted us, have been committed, that they be forthwith set at liberty. 3. That for the security and safety of the city of London, the custody and government of the Tower be immediately put into the hands of the said city. 4. That if his majesty shall think fit to be at London, during the sitting of the parliament, that we may be there also, with equal number of our guards: or if his majesty shall please to be in any place from London, whatever distance he thinks fit, that we may be at a place of the same distance; and that the respective armies be from London 30 miles; and that no farther forces be brought into the kingdom. 5. That for the security of the city of London, and their trade, Tilbury Fort be put into the hands of the said city. 6. That a sufficient part of the Public Revenue be assigned us, for the support and maintenance of our troops, until the sitting of a Free Parliament. 7. That to prevent the landing of the French, or other foreign troops, Portsmouth may be put into such hands, as by his majesty and us shall be agreed on."

The King leaves Whitehall, and throws the Great Seal into the Thames.] Notwithstanding this Treaty, the king, resolving to take sanctuary in France, first, by letter, disbanded his Army, and then ordered all those writs to be burnt that were not sent out for the calling of the parliament, and entered a caveat against making use of those few that were already sent out. And lastly, when he left Whitehall, and took water, he threw the Great Seal into the Thames.

Meeting of the Peers at Guild-Hall—Their Declaration.] Dec. 11. About thirty of the lords spiritual and temporal, then in and about town, namely, the archbishops of Canterbury and York; the bishops of Winchester, St. Asaph, Ely, Rochester and Peterborough; the earls of Pembroke, Dorset, Mulgrave, Thanet, Carlisle, Craven, Aylesbury, Burlington, Berkley, and Rochester; viscount Newport and Weymouth; and the lords Wharton, North and Grey, Chandois, Montague, Jermyn, Vaughan, Carbery, Colepeper, Crewe and Ossulston, all solemnly met at Guild-Hall, and sending for the lord mayor and aldermen of the city, who readily attended, made this memorable Declaration:

"We doubt not but the world believes that in this great and dangerous conjuncture, we are heartily and zealously concerned for the Protestant Religion, the Laws of the land, and the Liberties and Properties of the subject. And we did reasonably hope, that the king having issued out his proclamation and writs for a Free Parliament, we might have rested secure under the expectation of that meeting: but his majesty having withdrawn himself, and, as we apprehend, in order to his departure out of this kingdom, by the pernicious councils of persons ill-affected to our nation and religion, we cannot, without being wanting to our duty, be silent under these calamities, wherein Popish councils, which so long prevailed, have miserably involved this realm. We do therefore unanimously resolve to apply ourselves to his highness the Prince of Orange, who, with so great kindness to these kingdoms, such vast expence, and so much hazard to his own person, has undertaken, by endeavouring to procure a Free Parliament, to rescue us, with as little effusion, as possible, of Christian blood, from the imminent dangers of Slavery and Popery. —And we do hereby declare, that we will, with our utmost endeavours, assist his highness in the obtaining such a parliament with all speed, wherein our Laws, our Liberties and Properties may be secured, and the Church of England in particular, with a due liberty to Protestant Dissenters; and in general, that the Protestant religion and interest over the whole world may be supported and encouraged, to the glory of God, the happiness of the established government in these kingdoms, and the advantage of all princes and states in Christendom, that may be herein concerned. In the mean time we will endeavour to preserve, as much as in us lies, the peace and security of these great and populous cities of London and Westminster, and the parts adjacent, by taking care to disarm all Papists, and secure all Jesuits and Romish priests, who are in or about the same. And if there be any thing more to be performed by us, for promoting his highness's generous intentions for the public good, we shall be ready to do it, as occasion shall require."

Address of the City of London to the Prince.] This was followed by an Address from the city of London to the Prince, which runs thus: "We the lord-mayor, &c. taking into consideration your highness's fervent zeal for the Protestant Religion, manifested to the world in your many hazardous enterprizes, wherein it hath pleased Almighty God to bless you with miraculous success, do render our deepest thanks to the divine majesty for the same, and beg leave to present our most humble thanks to your highness, particularly for your appearing in arms in this kingdom, to carry on and perfect your glorious designs to rescue three kingdoms from Slavery and Popery, and in a Free Parliament to establish the Religion, and the Laws and Liberties of these kingdoms upon

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a sure and lasting foundation. We have hitherto looked for the same remedy for those oppressions and imminent dangers, which we, together with our Protestant fellow-subjects, laboured under, from his majesty's concessions and concurrences with your highness's just and pious purpose expressed in your gracious Declaration. But herein finding ourselves finally disappointed by his majesty's withdrawing himself, we presume to make your highness our refuge; and do in the name of this capital city, implore your highness's protection, and most humbly beseech your highness to repair to this city, where your highness will be received with universal joy and satisfaction."

The Lords meet the Prince of Orange at St. James's.] Dec. 21. The lords spiritual and temporal, to the number of above 60, appeared and assisted the Prince at St. James's in a great council. To whom his highness made this short Speech:

"My Lords; I have desired you to meet here to advise the best manner how to pursue the ends of my Declaration in calling a Free Parliament, for the preservation of the Protestant Religion, the restoring the Rights and Liberties of the kingdom, and settling the same, that they may not be in danger of being again subverted."

Upon speaking of which, his highness withdrew. After the reading of the Prince's Declaration, the lords voted their particular Thanks for his highness's coming over; and, the better to consider the most effectual means to obtain the ends of his Declaration, and settle a Form of Government, they resolved to assemble for the future in their antient house at Westminster. For which purpose, they named five of the most eminent lawyers, viz. sir John Maynard, Mr. Holt, Mr. Pollexfen, Mr. Bradford and Mr. Atkinson, to assist them in their important consultations, and to explain to them the laws and constitutions of the realm, in the room of the Judges, who were most of them absent from London. They also appointed Mr. Francis Gwin to sign such Orders as should be from time to time by them made. It was farther proposed, that the whole assembly should sign the Association, formerly mentioned, which the nobility and gentry had already subscribed at Exeter; to which proposal all agreed, except the duke of Somerset, the earls of Pembroke and Nottingham, the lord Wharton, and all the bishops, save that of London, who set his hand to the association. The main objection of the Bishops was upon the account of the unchristian word 'Revenge,' which being afterwards changed for that of 'Punishment,' they were better satisfied.

The King's Paper left behind him when he took Shipping for France.] Dec. 23. The king took shipping for France, having first left behind him a Paper written with his own hand, which was as follows:

"The world cannot wonder at my withdrawing myself now this second time. I might have expected somewhat better usage after what I writ to the prince of Orange by my lord Feversham, and the instructions I gave him: but instead of an Answer, such as I might have hoped for, what was I to expect after the usage I received, by making the said earl a prisoner, against the practice and law of nations; the sending his own guards at eleven at night, to take possession of the posts at Whitehall, without advertising me in the least manner of it; the sending to me at one a-clock after midnight, when I was in bed, a kind of an Order by three lords, to be gone out of my own palace before twelve that same morning? After all this, how could I hope to be safe, so long as I was in the power of one, who had not only done this to me, and invaded my kingdoms without any just occasion given him for it; but that did, by his first Declaration, lay the greatest aspersion upon me that malice could invent, in that clause of it which concerns my son? I appeal to all that know me, nay, even to himself, that in their consciences, neither he, nor they, can believe me in the least capable of so unnatural a villainy, nor of so little common sense, to be imposed on in a thing of such a nature as that. What had I then to expect from one, who by all arts hath taken such pains to make me appear as black as hell to my own people, as well as to all the world besides? What effect that hath had at home, all mankind have seen by so general a defection in my Army, as well as in the nation, amongst all sorts of people.—I was born free, and desire to continue so; and though I have ventured my life very frankly on several occasions, for the good and honour of my country, and am as free to do it again, (and which I hope I shall yet do, as old as I am, to redeem it from the slavery it is like to fall under) yet I think it not convenient to expose myself to be so secured, as not to be at liberty to effect it; and for that reason do withdraw, but so as to be within call whenever the nation's eyes shall be opened, so as to see how they have been abused and imposed upon by the specious pretences of Religion and Property. I hope it will please God to touch their hearts, out of his infinite mercy, and to make them sensible of the ill condition they are in, and bring them to such a temper, that a legal Parliament may be called; and that, amongst other things which may be necessary to be done, they will agree to Liberty of Conscience to all Protestant Dissenters; and that those of my own persuasion may be so far considered, and have such a share of it, as they may live peaceably and quietly, as all Englishmen and Christians ought to do, and not be obliged to transplant themselves; which would be very grievous, especially to such as live in their own country: and I appeal to all men, who are considering men, and have had experience, whether any thing can make this nation so great and flourishing, as Liberty of Conscience? Some of our neighbours dread it. I could add much more, to confirm what I have said, but now is not the proper time."

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The Peers assemble at Westminster: and address the Prince of Orange.] There being now an actual Interregnum, about ninety peers met at their house at Westminster, and agreed upon the following Address to the Prince of Orange:

"We the lords spiritual and temporal, assembled in this conjuncture, do desire your highness to take upon you the administration of Public Affairs both civil and military, and the disposal of the Public Revenue, for the preservation of our Religion, Rights, Laws, Liberties and Properties, and of the Peace of the nation; and that your highness will take into your particular care the present condition of Ireland, and endeavour by the most speedy and effectual means to prevent the dangers threatening that kingdom: all which we make our requests to your highness to undertake and exercise, till the Meeting of the intended Convention, the 22d day of Jan. next; in which, we doubt not, such proper methods will be taken, as will conduce to the establishment of these things upon such sure and legal foundations, that they may not be in danger of being again subverted. Dated at the house of lords, Westminster the 25th of December."

Having made this first step, their lordships proceeded to consider of the most effectual way for summoning the said Convention, and, the same day, drew up their opinions, in this second Address to the Prince:

"We the lords spiritual and temporal, assembled at Westminster in this extraordinary conjuncture, do humbly desire your highness to cause Letters to be written, subscribed by yourself, to the lords spiritual and temporal, being Protestants; and to the several counties, universities, cities, boroughs, and cinque ports of England, Wales, and the town of Berwick-upon-Tweed: the Letters for the counties to be directed to the coroners of the respective counties, or any one of them; and in default of the coroners, to the clerk of the peace of the respective counties: and the Letters for the universities, to be directed to every vice-chancellor: and the Letters to the several cities, boroughs, and cinque ports, to be directed to the chief magistrate of each respective city, borough and cinque port; containing Directions for the chusing, in all such counties, cities, universities, boroughs and cinque ports, within ten days after the receipt of the respective Letters, such a number of persons to represent them, as are of right to be sent to parliament: of which elections, and the times and places thereof, the respective officers shall give notice, within the space of five days in the least. Notice of the intended elections for the counties, to be published in the churches, immediately after the time of divine service, and in all the market-towns within the said respective counties: and notice of the intended elections for the cities, universities, boroughs and cinque ports, to be published within the said respective places. The said Letters, and the execution thereof, to be returned, by such officer and officers who shall execute the same, to the clerk of the crown in the court of chancery; so as the persons so to be chosen may meet and sit at Westminster, on the 22d day of January next."—These two Addresses were subscribed by about ninety lords, who were then present in the house.

The Prince of Orange summons the Commons, &c.] Dec. 23. This day the Prince of Orange issued forth the following Order: viz. "Whereas the necessity of affairs does require speedy Advice; we do desire all such persons as have served as knights, citizens or burgesses in any of the parliaments that were held during the reign of the late king Charles II. to meet us at St. James's, upon Wednesday the 26th of this instant Dec. by ten of the clock in the morning. And we do likewise desire, that the lord mayor and court of aldermen of the city of London would be present at the same time; and that the common-council would appoint fifty of their number to be there likewise. And hereof we desire them not to fail."

His Speech to them.] Pursuant to this Summons, many members of the parliaments in king Charles's reign, to the number of about 160, and the aldermen and deputies of the common-council of the city of London, assembled at St. James's, on the appointed day; where the Prince made this following Speech to them: "You, gentlemen, that have been members of the late parliaments, I have desired you to meet me here, to advise the best manner how to pursue the ends of my Declaration, in calling a Free Parliament, for the preservation of the Protestant Religion, and the restoring the Rights and Liberties of the kingdom, and settling the same, that they may not be in danger of being again subverted. And you the aldermen and members of the common-council of the city of London, I desire the same of you. And in regard your numbers are like to be great, you may, if you think fit, divide yourselves, and sit in several places." The lord mayor being absent, upon the account of his indisposition, the Prince gave the copy of his Speech to sir Thomas Allen, as being eldest alderman, and styled Father of the City, desiring that he and the rest would take that Paper into immediate consideration.

They form themselves into a House.] Accordingly, by agreement, they all repaired to the commons house in Westminster; where being seated, and having chosen Henry Powle, esq. for their chairman, the first question they debated, was, What Authority they had to assemble? Upon which it was soon agreed, That the request of his Highness the Prince was a sufficient warrant. The next Question of moment was, How his highness could take upon him the administration of affairs without a distinguishing name or title? Which objection being started by sir Robert Southwell, was sufficiently answered by serjeant Maynard, who said, That the Assembly would lose a

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great deal of time, if they waited till sir Robert could conceive how that was possible. A temporary offer of the government being made to his highness, one proposed that it should be, not for a month only, but for a whole year; to whom it was answered, that the Convention ought only to consider of that. Others moved that the Association, that had been signed by the lords, might likewise be subscribed by this assembly; but it was carried, that the said association should be left upon the table, and every one be at liberty to sign it or not.

Their Address to the Prince.] After these previous debates, they resolved upon Heads for an Address to be made to his highness, and appointed persons to draw up and prepare the same; and, in the afternoon, it was done accordingly, and read and approved in this form:

"We who have served as members of parliaments during the reign of the late king Charles II. together with the court of aldermen, and members of the common-council of the city of London, assembled at your highness's desire, in this extraordinary conjuncture, do, with an unanimous consent, tender to your highness our humble and hearty Thanks, for your coming into this kingdom, and exposing your person to so great hazards, for the preservation of our Religion, Laws, and Liberties, and rescuing us from the miseries of Popery and Slavery: and desire your highness, (for the pursuance of these ends, and for the preservation of the peace of the nation) will take upon you the Administration of Public Affairs, both civil and military, and the disposal of the Public Revenues. We do also desire, that your highness will take into your particular consideration, the present condition of Ireland; and endeavour, by the most speedy and effectual means to prevent the dangers threatning that kingdom. All which, we desire your highness to undertake and execute, until the Meeting of the intended Convention, the 22d day of January next." Then, for the chusing of members for the said Convention, they proposed the same which has been mentioned in the Lords Address; and so concluded in these words, "This we humbly offer to your highness, as our best advice, in this exigency of affairs, for attaining the ends of your highness's Declaration; and as the best means tending to such an Establishment, as that our Religion, Laws and Liberties, may not be in danger of being again subverted."

The Prince's Answer.] His highness having appointed to receive the Address the next morning, he was then attended by a body of them; and the Address was presented and read by Mr. Powle to his highness; who was pleased to declare, That it being a matter of weight, he would consider thereof, and give his Answer the next day. Accordingly, on Friday morning, Dec. 28, his highness first gave the following Answer at St. James's to the lords spiritual and temporal: "My lords; I have considered of your Advice; and, as far as I am able, I will endeavour to secure the peace of the nation, until the meeting of the Convention in January next; for the election whereof I will forthwith issue Letters, according to your desire. I will also take care to apply the Public Revenue to the most proper uses that the present affairs require; and likewise endeavour to put Ireland into such a condition, as that the Protestant Religion, and English Interest may be maintained in that kingdom. And I further assure you, That as I came hither for the preservation of the Protestant Religion, and the Laws and Liberties of these kingdoms, so I shall always be ready to expose myself to any hazard for the defence of the same." And in the afternoon, his highness was pleased to return the same Answer to the Commons.

MEETING OF THE CONVENTION.

List of the Members of the Convention.] January 22, 1688-9. This day the Convention met at Westminster*, agreeably to the Letters issued by the Prince of Orange, at the desire of the lords, commons, and citizens of London. The following is a List of its Members:

Abington,
Thomas Medlicott.
Agmondesham,
Edmund Waller,
Sir William Drake.
St. Albans,
George Churchill,
Samuel Grimston.
Aldborough, (Suffolk)
Sir Henry Johnson,
Sir William Johnson.
Aldborough, (Yorkshire)
Christopher Tancred,
Sir Michael Wentworth.
Allerton, North,
William Robinson,
Thomas Lascels.
Andover,
Francis Powlet,
John Pollen.
Anglesea,
Visc. Bulkley.
Appleby,
Sir John Lowther,
Henry Wharton.
Arundel,
William Morley,
William Garraway,
Ashburton,
Sir Walter Young,
Edward Reynel.
Aylsbury,
Thomas Lee,
Richard Beak.
Bambury,
Sir Robert Dashwood.
Barnstaple,
Richard Lee,
Sir A. Chichester.
Bath City,
Sir William Basset,
Visc. Fitzharding.
Beaumaris,
Sir William Williams.
Bedfordshire,
Edward Russel,
William Duncomb.
Bedford Town,
Thomas Hillersden,
Thomas Christie.

* "It was upon the appointed time, the longed-for 22d day of January, that the Grand Convention met; not only with the expectations of the British dominions, but of all the neighbouring kingdoms and nations. Being divided into two houses, as usual in parliament, (of whose rules they were strictly observant) they immediately proceeded to the choice of their Speakers. In the house of peers, the marquis of Halifax carried it against the earl of Danby; and in the lower house, Mr. Powle was unanimously chosen; though it was expected that sir Ed. Seymour, who had so early joined the Prince at Exeter, would have stood in competition with him. Both houses had their clerks and several officers, as in a regular parliament." Echard.

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Bedwin,
Sir Edmund Warnford,
John Wildman.
Berkshire,
Montagu Bertie,
Sir Hum. Winchcomb.
Berwick,
Francis Blake,
Philip Babington.
Beverly,
Sir John Hotham,
Michael Wharton.
Bewdley,
Henry Herbert.
Bishops Castle,
Richard Moore,
Walter Warring.
Bletchingly,
Thomas Howard,
John Glydd.
Bodmin,
Sir John Cutler,
Nicholas Glynn.
Boralston,
John Elwill,
Joseph Maynard.
Boroughbridge,
Sir Thomas Meleverer,
Sir Henry Goodrick.
Bossiny,
Sir Peter Colliton,
Humphrey Nicholas.
Boston,
Sir William York,
Lord Willoughby.
Brackley,
John Parkhurst,
Lord Wenman.
Bramber,
John Alfred,
Charles Goring.
Brecon County,
Edw. Jones.
Brecon Town,
Thomas Morgan.
Bridgwater,
Henry Bull,
Sir Francis Warre.
Bridport,
Richard Broadrepp,
John Manley.
Bristol,
Sir Richard Hart,
Sir John Knight.
Bridgenorth,
Sir Edward Acton,
Sir William Whitmore.
Buckinghamshire,
Thomas Wharton,
Sir Thomas Lee.
Buckingham Town,
Sir Ralph Verney,
Sir Richard Temple.
Calne,
Henry Chivers,
Li. Ducket.
Cambridgeshire,
Sir Levinz Bennet,
Sir Robert Cotton.
Cambridge Town,
John Cotton,
Sir Thomas Chichley.
Cambridge University.
Sir Robert Sawyer,
Isaac Newton.
Camelford.
Henry Manaton,
Ambrose Manaton,
Canterbury,
Sir Edw. Honywood,
Henry Lee.
Cardiff,
Thomas Mansel.
Cardigan County,
Hector Philips.
Cardigan Town,
John Vaughan.
Carlisle,
Jer. Bubb,
Sir Christ. Musgrave.
Caermarthen County,
Sir Rice Rudd.
Caermarthen Town,
Richard Vaughan.
Caernarvon County,
Sir William Williams.
Caernarvon Town,
Sir Robert Owen.
Castle-rising,
Sir Robert Howard,
Robert Walpole.
Chester County,
Sir Robert Cotton,
John Mainwaring.
Chester City,
Robert Whitley,
Sir Thomas Grosvenor.
Chichester,
Thomas Miller,
Thomas May.
Chippenham,
Henry Baynton,
Nich. Baynton.
Chipping Wycombe,
Thomas Lewis.
William Jephson.
Christ Church,
Francis Gwynn.
William Etterick.
Cirencester,
John How,
Thomas Maisters.
Clifton,
Charles Boon,
William Hayne.
Clithero,
Christ. Wilkinson,
Anthony Parker.
Cockermouth,
Sir Henry Capel,
Henry Fletcher.
Colchester,
Samuel Reynolds,
Isaac Rebow.
Corf-Castle,
William Okeden,
Richard Pownes.
Cornwall,
Sir John Carew,
Hugh Boscawen.
Coventry,
John Stratford,
Sir Roger Cave.
Cricklade,
Charles Fox,
Edmund Webb.
Cumberland,
Sir John Lowther,
Sir George Fletcher.
Denbighshire,
Sir Richard Middleton.
Denbigh Town,
Edward Brereton.
Derbyshire,
Sir John Gell,
Sir Gilbert Clarke.
Derby Town,
Anthony Grey,
John Coke.
Devizes,
Sir William Pincent,
Walter Grubb.
Devonshire,
Francis Courtney,
Samuel Roll.
Dorchester,
Gerard Napier,
John Trenchard.
Dorsetshire,
Thomas Strangeways,
Thomas Freak.
Dover,
Sir Basil Dixwell,
Thomas Papillon.
Downton,
Maurice Buckland,
Sir Chas. Rawley.
Droitwich,
Lord Coot,
Samuel Sandys.
Dunwich,
Sir Thomas Allen,
Roger North.
Durham County,
Robert Byerly,
William Lambton.
Durham City,
George Morland,
Henry Lyddell.
East Low,
Henry Trelawny,
Charles Trelawny,
Edmunds Bury,
Sir Robert Davers,
Sir Thomas Harvey,
Essex,
Henry Mildway,
John North.
Evesham,
Henry Parker,
Sir J. Matthews.
Exeter,
Henry Polexfen,
Sir Edward Seymour.
Eye,
Thomas Knivet,
Henry Pooley.
Flintshire,
Sir R. Pullestone.
Flint Town,
Sir John Hanmer.
Fowey,
Shadrach Vincent,
John Rashleigh.
Gatton,
Thomas Turgis.
Sir John Thompson.
Germain's,
Sir Walter Moyle,
Daniel Elliot.
Glamorgan,
Bussey Mansel.
Gloucestershire,
Sir John Guise,
Sir Ralph Dutton.
Gloucester City,
Sir Duncomb Colchester,
Sir William Cook.
Grampound,
Edward Hearle,
John Tanner.
Grantham,
Sir John Brownlow,
Sir William Ellis.
Grimsby,
Sir Thomas Brinsden,
Sir Edward Askew.
Grimstead,
Sir Thomas Dyke,
Thomas Sacville.
Guildford,
Foot Onslow.
John Weston.
Harwich,
Sir Thomas Middleton,
John Eldred.
Haslemere,
White Titchborn,
Dennis Onslow.
Hastings,
Thomas Mun,
John Ashburnham.
Haverford West,
William Wogan.
Helston,
Sir John St. Aubin,
Charles Godolphin,
Herefordshire,
Sir Edward Harley,
Sir John Morgan.
Hereford City,
Sir William Grevil,
Paul Foley.
Hertfordshire,
Sir Charles Cæsar,
Sir Thomas Blunt.
Hertford Town,
Sir William Cowper,
Sir Thomas Bide.
Heydon,
Matthew Appleyard,
Henry Guy.
Heytesbury,
William Sacheverell,
William Ash.
Higham,
Sir Rice Rudd.
Hindon,
John Milner,
Robert Hyde.
Honiton,
Richard Courtney,
Edmund Walrond.
Horsham,
Anthony Eversfield,
John Mitchel.
Huntingdonshire,
Robert Montagu.
Robert Bernard.
Huntingdon Town,
Sidney Wortley,
John Bigg.

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Hythe,
Edward Hales,
Julius Deeds.
Ilchester,
Sir Edward Windham,
William Hellier.
Ipswich,
Peyton Ventris,
Sir John Barker.
Ives, (St.)
James Praed,
Walter Vincent.
Kellington,
Jos. Prideaux,
William Coriton.
Kent,
Sir Vere Fane,
Sir John Knatchbull.
Kingston,
William Gee,
John Ramsden.
Knaresborough,
Lord Latimer,
William Stockdale.
Lancaster County,
Lord Brandon,
Sir Charles Houghton.
Lancaster Town,
John Belson,
John Raven.
Launceston,
William Harbord,
Edward Russel.
Leicestershire,
Thomas Halford,
Lord Sherrard.
Leicester Town,
Thomas Bellis,
Lawrence Carter.
Leominster,
John Duttoncolt,
Thomas Coningsby.
Leskard,
Sir Boucher Wray,
John Buller.
Lestwithiel,
Francis Roberts,
Walter Kendal.
Lewes,
Thomas Pelham,
Richard Bridger.
Lincolnshire,
Lord Castleton,
Sir Thomas Hussey.
Lincoln City,
Sir Christopher Nevil.
Henry Monson,
Litchfield,
Sir Michael Bidulph,
Robert Burdet.
Liverpool,
Lord Colchester,
Thomas Norris.
London,
Sir Patience Ward,
Sir Robert Clayton,
William Love,
Thomas Pilkington.
Ludlow,
Charles Baldwin,
Francis Herbert.
Ludgershall,
John Smith,
John Dean.
Lyme,
John Burridge,
John Pool.
Lymington,
Richard Holt,
John Burrard.
Lynn,
Sigismund Trafford,
Sir John Turner.
Maidstone,
Sir Thomas Taylor,
Caleb Banks.
Malden,
Charles Montagu,
Thomas Darcy,
Malmsbury,
Henry Wharton,
Charles Godfrey.
Malton,
Sir William Strickland,
William Palms.
Marlborough,
Sir J. Earnly,
George Willoughby.
Marlow,
Lord Faulkland,
Sir John Borlace.
Mawes, (St.)
Sir J. Tredenham,
Henry Seymour.
Melcomb,
Sir John Morton,
Sir Robert Napier.
Merionethshire,
Sir John Wynne.
Midhurst,
Sir Wm. Morley.
John Lukner.
Middlesex,
Sir Charles Garrard,
Ralph Hawley.
Milbourn,
Thomas Saunders,
John Hunt.
Minehead,
Nathaniel Palmer,
Francis Lutterell.
Michael, (St.)
Francis Vivian,
Lord Fenshaw.
Monmouthshire,
Sir Trevor Williams,
Lord Worcester.
Monmouth Town,
John Arnold.
Morpeth,
Roger Fenwick,
Lord Morpeth.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
Lord Herbert.
Newark,
Lord Eland,
Nicholas Saunderson.
Newcastle, (Staffordsh.)
Sir John Gower,
John Lawton.
Newcastle, (Northum.)
Sir William Blacket.
Sir Robert Carr.
Newport, (Cornwall)
William Morrice,
John Specot.
Newport, (Hants)
Sir Robert Dillington,
Wm. Stevens.
Newton, (Lancashire)
Francis Cholmley,
Sir John Chichley.
Newton, (Hants)
Lord Ranelagh,
Thomas Done.
Norfolk County,
Sir William Cook,
Sir Henry Hobart.
Northamptonshire,
Edward Montagu.
Edward Harby.
Northampton Town,
Sir John Langham,
Sir Justinian Isham.
Northumberland County,
William Forster,
Philip Bickerstaff.
Norwich,
Thomas Blofield,
Sir Nevile Catlyn.
Nottinghamshire,
Lord Houghton,
Sir Scroop How.
Nottingham Town,
Francis Pierrepont,
Edward Bigland.
Okehampton,
Henry Northleigh,
William Carey.
Orford,
Sir John Duke,
Thomas Glemham.
Oxfordshire,
Sir Robert Jenkinson,
Sir John Cope.
Oxford City,
Sir Edward Norris,
Henry Bertie.
Oxford University,
Heneage Finch,
Sir Thomas Clarges.
Pembrokeshire,
Sir Hugh Owen.
Pembroke Town,
Arthur Owen.
Penryn,
Anthony Rowe,
Alexander Pendarvis.
Peterborough,
Gilbert Dolben,
Charles Fitzwilliams.
Petersfield,
Robert Mitchell,
Thomas Bilson.
Plymouth,
Sir John Maynard,
Arthur Herbert.
Plimpton,
Sir George Treby,
John Pollexfen.
Pool,
Henry Trenchard,
Thomas Chaffin.
Pontefract,
Lord Down,
Sir Thomas Yarborough.
Portsmouth,
Richard Norton,
Henry Slingsby.
Preston,
James Stanley,
Thomas Patten.
Queenborough,
James Herbert,
Robert Crawford.
Radnor County,
Sir Rowland Gwyn.
Radnor Town,
Richard Williams.
Reading,
Sir Wm. Rich,
Sir Henry Fane.
Retford,
Evelyn Pierrepoint,
John Thornhaugh.
Richmond,
Thomas York,
John Darcy.
Rippon,
Sir Edw. Blacket,
Sir Jon. Jennings.
Rochester,
Sir Roger Twisden,
Sir John Banks.
Rumney,
John Brewer,
James Chadwick.
Rutlandshire,
Bennet Sherrard,
Sir Thomas Mackworth.
Rye,
Sir John Darrel,
Thomas Frewen.
Ryegate,
Roger James,
Sir John Parsons.
Salop County,
Richard Newport,
Edw. Kynaston.
Salop Town,
Sir Francis Edwards,
Andrew Newport.
Saltash,
Bernard Greenville,
John Warden.
Sandwich,
Sir James Oxenden,
John Thurbane.
Sarum New,
Thomas Hoby,
Giles Eyre.
Sarum Old,
John Young,
Thomas Pitt.
Scarborough,
William Herbert,
Francis Thompson.
Seaford,
William Champion,
Sir Nicholas Pelham.
Shaftsbury,
Edward Nicholas,
Sir Matthew Andrews.
Shoreham,
John Monk,
Sir Edw. Hungerford.
Somertetshire,
Edward Gorges,
George Horner.

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Southampton County,
Lord Pawlet,
Lord Wiltshire.
Southampton Town,
Sir Richard Bret,
Sir Benj. Newland.
Southwark,
Sir Peter Rich,
John Arnold.
Staffordshire,
Sir Walter Baggot,
John Gray.
Stafford Town,
Philip Foley,
John Chetwynd.
Stamford,
William Hyde,
Charles Bertie,
Steyning,
Sir John Morton,
Sir John Fagg.
Stockbridge,
Richard Whitehead,
Essex St. John.
Sudbury,
Sir John Poley,
Philip Gurdon.
Suffolk,
Sir John Cordel,
Sir John Rous
Surry County,
Sir Richard Onslow,
George Evelyn.
Sussex,
Sir John Pelham,
Sir William Thomas.
Tamworth,
Henry Sidney,
Sir Henry Gough.
Tavistock,
Sir Francis Drake,
Robert Russel.
Taunton,
Sir W. Portman,
John Sandford.
Tewkesbury,
Sir Francis Russel,
Richard Dowdeswell.
Thetford,
William Harbord,
Sir Francis Guybon.
Thirsk,
Richard Staines,
Thomas Frankland.
Tiverton,
Samuel Foot,
William Coleman.
Tolness,
Sir John Fowell,
Richard Mallock.
Tregony,
Charles Boscawen,
Hugh Fortescue.
Truro,
John Manley,
Henry Vincent.
Wallingford,
Thomas Tipping,
William Jennings.
Warwickshire,
Sir Richard Newdigate,
Sir Richard Verney.
Warwick Town,
William Colemore,
Lord Digby,
Wareham,
George Reeves,
Thomas Erle.
Wells,
Thomas Wyndham,
Edward Berkeley.
Wendover,
John Hampden,
Richard Hampden.
Wenlock,
William Forrester,
George Weld.
Weobly,
John Birch.
James Morgan.
Westbury,
Peregrine Bertie,
Richard Lewis.
West Low,
Piercy Kirk,
James Kendall.
Westminster,
Sir William Pulteney,
Philip Howard.
Westmoreland,
Henry Wharton,
Sir John Lowther.
Weymouth,
Michael Harvey,
Henry Henninge.
Whitchurch,
Lord Russell,
Henry Wallop.
Winchelsea,
Richard Austin,
Samuel Western.
Winchester,
Lord Pawlet,
Francis Morley.
Windsor,
Sir Christopher Wren.
Henry Powle.
Wilton,
Thomas Penruddock,
Thomas Wyndham.
Wiltshire,
Thomas Mompesson,
Lord Cornbury.
Woodstock,
Sir John Doyley,
Sir Thomas Littleton.
Woolon Basset,
Henry St. John,
John Wildman.
Wygan,
Sir Edw. Chisnal,
William Banks.
Worcestershire,
Sir John Rushout,
Thomas Foley.
Worcester City,
John Somers,
William Bromley.
Yarmouth, (Norfolk)
George England,
Lord Huntington.
Yarmouth, (Hants)
Richard Norton,
Henry Slingsby.
Yorkshire,
Sir John Key,
Lord Fairfax,
York City,
Lord Dumblain,
Edward Thompson.

SPEAKER.—Henry Powle.

Mr. Powle chosen Speaker.] The earl of Wiltshire put the house in mind that the first business to be done was to chuse a Speaker, and that there was an honourable person in his eye, whom he conceived very well experienced in methods of parliament, and every way qualified for that place. He then proposed the right hon. Henry Powle, esq. who being approved by a general call, to the Chair, was conducted to and placed in the same by the earl of Wiltshire, and sir Vere Fane, knight of the Bath; where being seated, he spake to the following effect: "Gentlemen, I know very well that excuses from this place, are looked upon only as formalities; but I am so sensible of my own defects, and so desirous that this house may not receive any prejudice by them, that I most earnestly intreat you, that, among so many honourable and experienced members as are here met this day, you would make choice of one that is better able to perform the duty of this place."—But his Excuse not being allowed, the mace was called for and placed upon the table; after which, the house proceeded to the choice of their officers.

The Prince of Orange's Letter to both Houses.] And then Mr. Jephson, secretary to the Prince of Orange, presented to the Speaker a Letter from is highness, which the Speaker read to the house as follows:

"My lords and gentlemen; I have endeavoured to the utmost of my power to perform what was desired from me in order to the public peace and safety; and I do not know that any thing hath been omitted which might tend to the preservation of them, since the administration of affairs was put into my hands. It now lieth upon you to lay the foundation of a firm security for your Religion, your Laws and your Liberties. I do not doubt, but that by such a full and free representative of the nation, as is now met, the ends of my Declaration will be attained: and since it hath pleased God hitherto to bless my good intentions with so great success, I trust in him, that he will complete his own work, by sending a spirit of peace and union to influence your counsels, that no interruption may be given to a happy and lasting Settlement.—The dangerous condition of the Protestants in Ireland requiring a large and speedy succour, and the present state of things abroad, oblige me to tell you, that next to the danger of unreasonable divisions among ourselves, nothing can be so fatal as too great a delay in your consultations. The States, by whom I have been enabled to rescue this nation, may suddenly feel the ill effects of it, both by being too long deprived of the service of their troops, which are now here, and of your early assistance against a powerful enemy, who hath declared a war against them. And as England is by treaty

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already engaged to help them upon such exigencies, so I am confident, that their chearful concurrence to preserve this kingdom with so much hazard to themselves, will meet with all the returns of friendship and assistance, which may be expected from you as Protestants and Englishmen, whenever their condition will require it. Given at St. James's the 22d of Jan. 1688-9."

Debate thereon.] Mr. *Garroway.* All England is sensible of the great deliverance that we have had from Popery and Slavery by this generous Expedition of the prince of Orange. I need not urge arguments to give him Thanks; and, in the mean time, till we can proceed to a Settlement of the Nation, and till the lords and commons shall make farther application to him, desire 'that he will be pleased to take the Administration of the Government upon him.'

Mr. *Hampden.* I do concur in the motion. As the Prince's Letter requires haste, so I would have no time lost in considering it, so as things may not be precipitated which require due deliberation. Be pleased, in the mean time, to thank the prince, for the great action he has done in delivering the nation from Popery and Slavery; and, in the same words, to desire him to continue the Administration of the Government, till the lords and commons shall make farther application to him.

Col. *Birch.* 'That Thanks should be returned to the Prince, for his Deliverance of us, &c.' I would not have it so; but, 'that God has done it by his means.' I could never have believed, some months since, what God, by his hand, hath wrought for this kingdom.

Several other motions were made for an Addition to the question.

Sir *Tho. Lee.* Nothing will save your time more than to let two or three gentlemen withdraw, and pen you an Address, upon the debate of the house.

Mr. *John Howe.* I think it as proper for us to say, by whose means we were brought into Popery and Slavery, as by whom we were delivered out.

Address of both Houses to the Prince.] The lords sent a Message, with an Address much of the same nature with that above debated, for the concurrence of the house; which was agreed to as follows:

"We, the lords spiritual and temporal and commons assembled at Westminster, being highly sensible of the great Deliverance of this kingdom from Popery and arbitrary Power, and that our preservation is (next under God) owing to your highness, do return our most humble Thanks and Acknowledgments to your highness, as the glorious instrument of so great a blessing to us. We do further acknowledge the great care your highness has been pleased to take in the administration of the public affairs of the kingdom to this time. And we do most humbly desire your highness, that you will take upon you the administration of public affairs, both civil and military; and the disposal of the public revenue, for the preservation of our religion, rights, laws, liberties, and properties, and of the peace of the nation. And that your highness will take into your particular care the present condition of Ireland; and endeavour, by the most speedy and effectual means, to prevent the dangers threatening that kingdom. All which we make our request to your highness to undertake and exercise, till further application shall be made by us; which shall be expedited with all convenient speed; and shall also use our utmost endeavours to give dispatch to the matters recommended to us by your highness's letter."

The Prince's Answer.] The Prince's Answer was as follows:

"My lords and gentlemen; I am glad that what I have done hath pleased you; and since you desire me to continue the Administration of Affairs, I am willing to accept it. I must recommend to you the consideration of affairs abroad; which maketh it fit for you to expedite your business, not only for making a Settlement at home upon a good foundation, but for the safety of all Europe."

Debate on filling up the Vacancies of the House.] Sir *Henry Capel.* This assembly has been chosen with freedom. There has not been a better election a great while, without force of the lord lieutenants. You have done a great deal in one day, but this is not enough; so consider the word 'Administration;' it is but a small trust you repose in the prince; it will roll, and be uncertain. The prince has told you who has helped him to come over hither, the Protestants. I have seen quick bills for Money pass here, to fight against Protestants: I hope we shall now fight with them. His troops are wanted in Holland. I hope you will not neglect a day to consider them: The Protestants abroad are uneasy till they hear how we proceed. I have observed that we have not had above 160 formerly, at giving great sums; whereas, now we have no king, we are a full house. Therefore, pray take the State of the Nation into consideration as soon as you please.

Sir *Tho. Clarges.* The matter before you is of the greatest weight; therefore I hope you will proceed with prudence and wariness. Whole counties, as yet, have no members: and, that there may be no imputations upon us, and that all exceptions may be taken away, I would have this great affair debated in a full house.

Mr. *Hampden.* It is proper to resolve upon fillling the Vacancies of the house. I would not preclude the motions for it; but it is the order of the house, on a Vacancy, to send your Letter for filling up that vacancy. If you apply to the proper officer, he must have a seal; but now he has none, so cannot execute your order. Make a general rule for filling the Vacancies here, that, upon such a motion, application may be made to the Prince for his Letter to fill up that vacancy.

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Mr. *Seymour.* We are in so unfortunate an age, that it has improved precedents especially on mistaken grounds. There never was a Letter sent to the Chancellor for a writ to fill up a vacancy, but by a warrant from the Speaker of the commons of England assembled. 'You are to take care to chuse, &c.' It must be first made known to you, and it is the easiest way by warrant or order from you, and not to trouble the Prince upon this occasion.

Sir *Tho. Clarges.* A warrant from this house is a warrant for the lord keeper or chancellor, and he has always obeyed it, and thought it sufficient authority to send out a writ. Now you are here as a Convention, which is a resemblance of a parliament. The king, before he calls a parliament, sends his writ to chuse members: after you have sat here, then your precept; and now that we are sat here, you may send your warrant or letter to the coroner.

The *Speaker.* Anciently, you sent to the lord keeper or chancellor to issue out his writ, &c. There was, I remember, a great controversy [in 1672*] about my lord chancellor Shaftsbury sending out Writs to fill Vacancies, on his own motion, before he had notice from this house. There are two ways now proposed; one for a letter from the Prince to the coroner, and the other for the Speaker to send his Letter in your name, &c. I am ready to put the question which way you please.

Resolved, "That where any Vacancies have already happened, or shall hereafter happen, by death or removal of any members, or double returns, Mr. Speaker do, for the future, upon motion to this house, by his Letter, make application to his highness the prince of Orange, desiring him to issue out his Letter, directed to the respective coroner or coroners or chief magistrates, as formerly, for the supplying such Vacancies, by electing other members therein."

The King's Letter to the Lords and Commons.] About this time, the King, now at St. Germains, directed the following Letter to both houses; in which, with great concern, he told them, "That he thought himself obliged in conscience to do all he could to open his people's eyes, that they might see the true interest of the nation in this important conjuncture: that finding he could no longer stay with safety, nor act with freedom, he had left the Reasons of his withdrawing from Rochester, under his own hand: that understanding that Letter [here repeated at length] was not taken to be his, but was maliciously suppressed by the Prince of Orange, he wrote to several of his privy-council, and directed copies thereof to divers of them, the peers of the realm, believing none durst intercept or open any of his letters: that of all these he had no account, nor did he wonder that all arts were used to hinder them from knowing his sentiments: that he was resolved that nothing should be omitted on his part, that could contribute towards the Redress of all former errors, or present disorders, or add to the securing of the Protestant Religion, or the Property of the subject; intending to refer the whole to a parliament legally called, freely elected, and held without constraint: and that none might despair of his mercy, he declared on the word of a king, that his pardon should be extended even to those that betrayed him, (some few excepted) resolving in that parliament, by an Act of Oblivion, to cover all faults."—This Letter was sent by the lord Preston to the house of commons, and directed to their Speaker: but the house understanding that it came from king James, did not think fit to take any notice of it, and so rejected it unopened.

Debate on the State of the Nation.] Jan. 28. Col. *Birch.* It has been moved, by one or two, 'That the Speaker leave the chair.' I have known it moved, in granting Money, and all ordinary business; but to leave it now, in a great business, you will make it twice as long. I move you to consider, that, as it will hinder the work, so it will lower the greatness of it, and make it less than it is.

Serjeant *Maynard.* It is a great affair now upon you. It is never done till debated first in the house. How many propositions will happen at a grand committee, without your directions first! You must, at a committee, know whereupon to go. First consider of the business, and then refer it as occasion requires.

Sir *Edw. Seymour.* What resolution soever you take, I would not have you go out of the method of usual proceedings. I know how strait-laced, in such a great matter, men will be in the house, where they can speak but once. It will look as if you were not willing it should take effect, as if ill done. But that it may freely be done, pray leave the Chair, to debate freely the Establishment of the nation.

The Speaker then left the Chair, and the house went into a Grand Committee.

Mr. *Dolben.** I take leave to remind you of the order of the house on Monday, 'to consider of the State of the Nation;' but not at the same time to debate the Remedies for the misfortunes we are fallen under. First, consider the condition of the nation, as to that which concerns the Vacancy of the government, by the absence of the king. I tell you freely my opinion, that the king is demised, and that James 2. is not king of England. For I lay it down as an undoubted proposition, that, when the king does withdraw himself from the administration of the government, without any provision to support the commonwealth; when, on the contrary, he stops the use of the great seal, by taking it away with him, this amounts to what the law calls demise,

* See vol. iv. p. 507.

* Son to the late archbishop of York.

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id est, a cession; and 'demised' is 'deserted the government.' This is evident in law, as it is evident in reason and authority. The meaning of the word demise is *demisio*, laying down; whether actually relinquishing the government, or passively by death; in either of which cases, it is a demise. In the necessity of government, all these cases have the same consequences. When the interruption is in the administration, or it is demised; where there is the same mischief, there must be the same remedy. It is the same thing for the king to withdraw his person, which makes a parenthesis in the government. By withdrawing the seal, the chancery ceases, and no justice can be obtained. The Common Pleas cannot be possessed of any cause without an original writ out of Chancery; and when these fail, the law fails; and, by consequence, it is a demise, for want of the administrators of the government; which the law cannot suffer. 'Qui cessat regnare cessat judicare.' There is one authority in the Rolls, instar omnium, in the case of Ed. 4. There was a rumour that the earl of Warwick advanced towards him; he fled from Nottingham beyond sea; which was a clear demise, and all proceedings in Westminster-Hall ceased, and it was judged a demise. In 14 Hen. 6. there are many resolutions of causes discontinued, by that demise; 'remansit sine die,' because 'le roi se demise,' in effect *felo de se*. Writs of attachment were discontinued, because justices came not into the country, and the king went beyond sea, without leaving a lieutenant. The great oracle of the law, judge Littleton, pronounced this departure of Edw. 4. a demise. Perhaps it may be objected, that Edw. 4. did return again to the administration of the government, and resumed the government by conquest, not in a legal way, but by the sword. There are two other authorities that carry force in them. Edw. 2. resigned the crown, but by duresse; yet he made the resignation the 25th of Jan. and immediately it was judged a demise. Rd. 2.'s Resignation was *per minas*, yet that was judged a demise (as in Rastall) 'Quod recordatum de regimine regni sui se demisit R. 2. &c.' These precedents seem stronger in our case, which is a voluntary departure, without duresse. But, that our king was frighted or forced away, others can better tell; but, by what is notorious to the world, there is a sufficient conviction that it was not force; but that he did abandon his palace by night, and did go to sea, and was taken and returned again to his own guards, that papists might not raise any disturbance in the apprehension of his being detained prisoner. But this weighs most with me; that it was not probable that he was driven away by force, when he stole away from his guards, and repeated the attempt to be gone. There is the king's Letter to lord Feversham, wherein he is obliged to follow the queen. We have not only our law in the case, but the authority of foreign writers. By the civil law, when the king does voluntarily abandon the government, it is a demise, and cessation of the government, according to Grotius, and other learned writers, by many arguments from the law of God. Grotius lays down some: 'Si princeps habet imperium pro direlicto,' &c. he is but a private man then, he certainly ceases to be a prince. Not that he was negligent in the administration of government, but did direlict; and we argue well, that a direliction is a desertion of the government. Hoffman, the civilian, says, 'If a prince relinquishes the government, he ceases to be a king.' Regularly, I must end with a motion; which is, that you will pass a vote, that it is the opinion of the committee, "That king James 2. having voluntarily forsaken the Government, and abandoned and forsaken the kingdom, it is a voluntary demise in him."

Mr. *Arnold* seconded the motion.

Sir *Rd. Temple*. This learned gentleman has said enough to convince us, that the gravity of this committee is great, and that we have liberty to deliver the thoughts in every man's breast. I shall farther declare, that the king has endeavoured to destroy the government of the nation in parliaments, by practising to get votes before they meet, and to turn all out of the government, who would not comply with him in corporations to deliver up their charters. This has been so notorious, that I shall not mention where; though it has been the rights and privileges of the people, yet they shall not be chosen till they declare they will destroy the government. How has Westminster-hall been tutored, judges packed for purposes, and turned out, unless they assert power in kings to dispense with the laws, so that Westminster-hall was become an instrument of slavery and popery, ordinary justice destroyed, and extraordinary ways promoted, in that little and short time of the late king James's reign! When a king attempts to destroy the roots of government, he differs in nothing from a tyrant. All he has done may be reduced to that head of the destruction of the Church, by suspending the ecclesiastical laws, to destroy all that will not comply with Popery. The mischiefs are so recent and conspicuous, that, when you come to give reasons, you will satisfy the nation that king James has rendered himself inconsistent with government. If there be not a Vacancy, and he has left the government, what do we do here? He has quitted the government, without assurance of any thing: he has suppressed the parliament writs: he has taken away the great seal; and here is an apparent end of the government. The king is fallen from the crown, and may think he is under an obligation of conscience to break the laws against Popery. He may say, 'I will never live in that torture:' and if he has said so, would any man doubt but that this is a renunciation of the government? All his actions have tended this way. If he be recalled, he will do the same thing again, and tell the world, 'This is not from the lords,

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but a company of miserable men of the house of commons, and they may go home again; for the king can do no wrong, nor can forfeit his crown by male administration.' But, suppose the case were of an infant, or lunatic, the nation may, in that case, provide for the government; and, were the king a person that took care of the government, he would never have left the nation thus. He has taken none, and therefore it is our duty to do it.

Sir *Tho. Lee.* When you have put the question, 'That there is an avoidance in the government,' then your second part is, how to provide for it.

Mr. *Finch.* The question now is of Vacancy in the government: that of the right and title to fill it up comes too late after the other question. Your question is, Whether the right itself is gone?

Sir *Christ. Musgrave.** As to the matter of deposing kings, I shall leave that to the long robe, to exercise their abilities upon. I live near a kingdom (Scotland) where I know not how ill neighbours they will be, if they concur with your sense. I would be clear, whether the intention is to depose the king; and, if he has forfeited his inheritance to the crown, I would know from the long robe, whether you can depose the king, or no.

Mr. Comptroller *Wharton.*† I am glad gentlemen have explained themselves. The gentleman makes a question, whether the king may be deposed? but, whether he may be deposed, or deposes himself, he is not our king. It is not for mine, nor the interest of most here, that he should come again. Abdication and direliction are hard words to me, but I would have no loop-hole to let in the king; for I believe not myself nor any Protestant in England safe, if you admit him.

Sir *Christ. Musgrave.* I believe we are in great danger, should the king return again; but I would willingly know the opinion of the long robe; and I hope they have that candour and tenderness, that they will clearly give their thoughts in this great and extraordinary affair.

Serj. *Maynard.* I know not the meaning of this, but I am afraid of a meaning. The question is not, whether we can depose the king; but, whether the king has not deposed himself. It is no new project; our government is mixed, not monarchical and tyrannous, but has had its beginning from the people. There may be such a transgression in the prince, that the people will be no more governed by him. All governments, both military and civil, he disposes of, and because he asked a million for life, and we asked, the last parliament, but that some officers, not qualified by law, might be removed from their places, the parliament was dissolved. It is a mistake, that Ireland was conquered; it was yielded to Hen. 2. by calling him to take possession of it; and for 500 years it was part of the monarchy of England. The last Rebellion was by the influence of the Priests and Jesuits, and in 1641, the Protestants were all massacred. They slew 200,000 Protestants; and all that has been done in Ireland, would have been done in England. All authority, civil and military, was in Irish hands. Was this done like a king of England? What shall we think of this? Ireland to be in Popish hands! Can the king give away that kingdom? This has been long creeping upon us. There is no Popish prince in Europe but would destroy all Protestants; as in Spain, France, and Hungary; and in Spain they destroyed a gallant young prince (don Carlos) whom they suspected to incline to the Protestants; and now they would make Magdalen College a new St. Omers.

Mr. *Harbord.* If the question be, whether you have power to depose the king, that may tend to calling him back again, and then we are all ruined.

Mr. *Howe.* Some of the counsel talk as if they were instructing juries. I wish they would come plainly to the point.

Sir *George Treby.* I am sorry for this heat in a matter that requires our utmost deliberation. It is no less a question than, whether we shall be governed by Popery and arbitrary government, or whether we shall be rid of both. One gentleman would have the long robe declare, whether we have power to depose the king; though he speaks pertinent, yet it is not proper now; for we have found the crown vacant, and are to supply that defect. We found it so, we have not made it so. Mr. Finch would have it, the king going out of his wits, not out of the government. He

* "A gentleman of a noble family in Cumberland, whose life had been regular, and his deportment grave. He had lost a place in king James's time; for though he was always a high Tory, yet he would not comply with his designs. He had, indeed, contributed much to increase his revenue, and to offer him more than he asked; yet he would not go into the taking off the Tests. Upon the Revolution, the place out of which he had been turned was given to a man that had a good share of merit in it. This alienated him from the king; and he, being a man of good judgment, came to be considered as the head of the party; in which he found his account so well, that no offers that were made him could ever bring him over to the king's interests. Upon many critical occasions, he gave up some important points, for which the king found it necessary to pay him very liberally." Burnet.

† Eldest son of lord Wharton, to which title he succeeded on his father's death. He was one of the first of rank who joined the prince of Orange on his landing, and, upon his advancement to the throne, had considerable places under him, as he had also in the reign of queen Anne, being appointed lord lieutenant of Ireland, and created earl of Wharton, &c. In 1714, he was appointed by king George I. lord privy seal, and soon after was created a marquis. He died in 1715.

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knows the case; we are fallen out of the king's hands, and the government must be provided for, before you go any other way than what was first proposed. But, to what has been said of 'our not representing the fourth part of the nation, accounting women and children, and all persons not freeholders, of 40*l.* per annum, who are part of the nation, and in a Convention ought to be represented, when the government is to be disposed of,' I say, we represent the valuable part, and those that deserve a share in the government. You have advised the prince of Orange to take upon him the supreme authority of the administration of the government. The condition of the nation is incumbent on you to provide for; and I am in conscience satisfied, that the king has lost his legal government, and is fallen from it. That king that cannot, or will not, administer the government, is no longer king; and this king neither will nor can; which are sufficient reasons to declare the throne vacant. There are but two parts in government, to command and obey the legislature; but it is by the people's consent we make laws; and the king, in executing them, assumed a power to dispense with the laws in a lump. He dispensed with the Statute of Provisoes; and the consequence was, the Pope sent a Nuntio hither; and the consequence is, he declares 'he can no longer nor farther treat with his people in parliament.' As soon as that is done, he assumes an inherent indispensible authority to vacate all our laws, dispense with the Act of Uniformity, and set up the Ecclesiastical Commissions: no authority is above them; they judge without appeal; they would have deprived all the Protestant bishops and ministers in England, and filled up their bishopricks and livings with Popish priests. The cement of the government is for the people to depend upon the king for the administration of the government, and the people for the execution of laws, preservation of their grants and charters. The king, by this dispensing power, might have packed members of parliament, like the parliament of Paris, which is in the nature of Registers, only to record the king's will and pleasure by his dragoons; so, by this time, we might have been chosen by regulators or dragoons; and parliaments would have represented none of the people, except Papists. When the constitution of parliament is thus invaded, instead of redress of Grievances we should have no parliament called but of such as made grievances. If the prince of Orange had not rescued us from Popery, we should have delivered up, by law, both religion and kingdom. The height of the article against Rd. 2. was, 'That he would have the laws in his own breast, and packing of parliaments.' It was the judgment of king James 1. in the parliament of 1607, 'That, when a king breaks in upon his laws, he ceases to be a king.' It was the great argument, in the Exclusion Bill. What hurt can be done by a Popish king, is in the royal office only; but it is impossible in the rest of the offices of the government; for no Papist could come into them by law, because of the Tests: and this was the judgment of king James's friends then, and that it was that preserved the crown to him. How far this is a renouncing the crown, is the question. This was king James 1.'s own judgment; he is fallen from the crown, and is under an obligation of conscience to break these laws. I think it was an error to let him into the throne, and I would not do another in not keeping him out. Our Deliverer has taken care of us; therefore put the question, 'Whether king James 2. has not made an Abdication of the government, and that the Throne is void.'

Sir *Tho. Clarges.* To say 'that the crown is void,' is a consequence of an extraordinary nature. The consequence must be, we have power to fill it, and make it from a successive monarchy an elective; and whether a commonwealth, or alter the descent, is yet ambiguous. How came we hither the 22d of Dec. but to confer with the members of former parliaments? I told them then, 'It was to consider how to pursue the ends of the prince of Orange's Declaration, according to his Letter.' And the advice ended, to call a Convention by the Prince's Letter; that so a full and free representation of the people might advise to prosecute the ends of the Declaration, which would be tantamount to a legal parliament.

Sir *Wm. Williams.* Should you go to the beginning of government, we should be much in the dark: every man in town and country can agree in the fact of the state of things. It is plain that king James 2. is gone out of England into France; that is a plain fact. It is a wilful, voluntary, or mixed action. I hear of no direction for administration of the government, when the king left the kingdom; how he has disposed either of courts of justice, or of the parliament. If this fact be true, he is become useless, and has left no remedy to preserve the peace of the kingdom. This is partly the State of the Nation; and in that kingdom where we had always disrelished him in several parliaments, he has left several places void in the government; then what is to be done in this case? I propose it to be the first step, to declare, 'That James 2. by withdrawing himself from England, has deprived the kingdom of England of the exercise of kingly dignity.' Can any man deny all this? Then the consequence is, we are deprived of a king.

Mr. *Somers.** What you do in this case will

* Afterwards the great lord Somers. "He was born at Worcester in 1652. He was educated at a private school in Staffordshire, and then entered at Trinity College, Oxford, from which he removed to the Middle Temple. He afterwards highly distinguished himself as an able and eloquent pleader, and was in 1683, one of the counsel for Pilkington, lord Grey, and others who had caused a riot in London, and in 1688, for the seven Bishops. In the

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satisfy the world abroad, if it be like other cases. Sigismund king of Sweden's case is parallel to ours. King James 1. (upon an occasion most have heard of) protested, 'That if his posterity were not Protestants, he prayed to God to take them from the throne.' Sigismund made the like imprecation. He was so considerable as to be chosen king of Poland. After the crown of Sweden descended to him, he sent to take the government upon him: he returned, when he had changed his religion, and brought Jesuits along with him, who were resty, and would disturb the government, and invade the laws, as they have ever done. The king prepared to force his way to the crown; but before they came to a battle, they entered into treaty, and the king promised to call a parliament, and that religion should be settled; but before they met, he withdrew to the kingdom of Poland: so they settled Charles 8. upon that throne. First and last, the matter was jesuited, to change religion, subvert the government, and to withdraw from the kingdom. That withdrawing of Sigismund was much less than ours. He went to the kingdom he came from; ours has withdrawn to another kingdom, which has always been against the interest of England, and he cannot come out of the French king's power without his consent, and all to his advantage. Some have taken notice of things before, and some since, his desertion: but the king's going to a foreign power, and casting himself into his hands, absolves the people from their allegiance. He sent an ambassador to Rome, received a nuncio from thence, received a foreign jurisdiction, and set up Romish bishops in England, that the Popish religion might intervene with the government, thereby to subject the nation to the Pope, as much as to a foreign prince. Ireland, which has cost England so much treasure to reduce, and now to deliver it up to the Irish, to subject it to a foreign power! And to do things by such hands, as, by the constitution of the kingdom, are incapable! The hands were as much out of the way as the design—just like Sigismund, after he had left the kingdom, to send away the seal, call a parliament, and then desert the nation! My motion is, 'That you will appoint a committee to draw a Vote upon the debate.'

Convention Parliament of 1688-9, he was member for Worcester, and was one of the managers of the Commons, at a Conference with the Lords about the word 'Abdicated.' He was soon after made Solicitor-General and knighted, and in 1692 appointed Attorney General. In 1697, he was raised to the peerage, and made lord chancellor, but in 1700, he was removed from his high situation, and accused by the commons of high crimes and misdemeanors, of which, upon trial before his peers, he was acquitted. He now abandoned the struggles of political life for studious retirement, and was soon after chosen president of the Royal Society. He, however, occasionally laboured for the prosperity of his country in the house of lords, and projected the Union between Scotland and England. In 1708, he was president of the Council, but was removed by the change of ministry two years after. He grew so infirm, that he held no office under George 1. He died of an apoplectic fit, 26th April 1716, after surviving for some time the powers of his mind. He was never married. He wrote various pieces, and translated Plutarch's Life of Alcibiades, in the 'Lives by several hands,' and also 'Dido's Letter to Æneas from Ovid, &c.'" Lempriere.

"He held the seals seven years, with a high reputation for capacity, integrity, and diligence, and was in all respects the greatest man I had ever known in that post. He was very learned in his own profession, with a great deal more learning in other professions, in divinity, philosophy, and history. He had a great capacity for business, with an extraordinary temper; for he was fair and gentle, perhaps to a fault, considering his post; so that he had all the patience and softness, as well as the justice and equity, becoming a great magistrate. He had always agreed in his notions with the Whigs, and had studied to bring them to better thoughts of the king (William) and to a greater confidence in him." Burnet.

"John, lord Somers, was one of those divine men, who, like a chapel in a palace, remain unprofaned, while all the rest is tyranny, corruption, and folly. All the traditional accounts of him, the historians of the last age, and its best authors, represent him as the most incorrupt lawyer, and the honestest stateman, as a master orator, a genius of the finest taste, and as a patriot of the noblest and most extensive views; as a man, who dispensed blessings by his life, and planned them for posterity. He was at once the model of Addison, and the touchstone of Swift: the one wrote for him, the other from him. The former, however, has drawn a laboured, but diffuse and feeble character of him in the Freeholder, neither worthy of the author nor his subject." Walpole's Royal and Noble Authors.

Mr. Seward, in the second volume of his Anecdotes, p. 273, has produced the following notitiæ of lord Somers from a MS. in the possession of the late Dr. Birch: "April 26, 1716, died John lord Somers. Burnet hath done him justice in several places, and Addison has given his character in colours so strong, that little remaineth to be added. His application and capacity were equally great and uncommon. At his first going to school he never gave himself any of the diversions of children of his age, for at noon the book was never out of hand. To the last years of his life a few hours of sleep sufficed: at waking, a reader attended, and entertained him with the most valuable authors. Such management raised him to the highest eminency in his own profession, and gave him a superiority in all kinds of useful knowledge and learning."

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Serj. *Maynard.* The difference is but in words: I will speak to the last only. I am not of opinion that the king, being a Papist, has made himself incapable of the crown.

Mr. *Finch.** You have had variety of motions, and have well collected them. Give me leave to examine the motions; and I ask pardon if I differ in some things. It is moved, that, by acts done by the king, he has lost his crown that way; by going away, he has abdicated the crown, and made a total refusal of the government. It is moved to vary the state of the question, and only for the present to declare the Throne vacated. What question, in point of law, there is between 'demised, abdicated, and deserted,' the consequence can be but one and the same: if it be meant 'vacancy in the Throne,' and you must fill it, and that it is devolved upon the people, that is, I believe, farther than gentlemen would go: I believe no body will urge that so far, the constitution of the kingdom and government not admitting it. If we were in the state of nature, we should have little title to any of our estates. That the king has lost his title to the crown, and lost his inheritance, is farther than any gentleman, I believe, has, or will explain himself. The provision you will make will be but little acceptable to such a foundation. The consequence is but this; since the monarchy is hereditary, be it vacated, or whatever you will call it, the descent is the consequence of all. No man will say the monarchy is elective, let the administration be ever so ill, and that the king has no more in the monarchy than the exercise of it. If by neglect, or male-administration, he can forfeit no more than is in him, then this consequence is no more, than that his personal exercise of the crown is gone; but still it must subsist somewhere. This is of the highest consequence that ever any debate was here, for Law and Religion to be established sure and firm. However we may weather it, posterity may curse our memory in after-ages, if we fail in this weighty matter. What to propose is difficult. I will not go about to say that what the king has done is any way justifiable. Here has been an actual invasion of our Religion and Properties, when they did get men in to give up the whole rights of the kingdom. These are things of a high nature, and call for your timely assistance. Consider the difficulty that will arise in the consequence, to say, that the king has made a total renunciation of the kingdom. That the king may renounce, all agree, that such renunciation must be voluntary and public; and whether such desertion be an abdication? If he has lost it, the monarchy will either be hereditary or elective, and here will be consequences. I am not of opinion that you should send proposals to the king; it will not consist with the security of the nation. Suppose the kingdom under a state of infancy, or frenzy, the safety of the government is in the unanimous opinion of the nation. It is not hard to say, that the parliament must provide for the administration of the government, but to call this 'a direct forfeiture of the Crown!' I will not excuse the the king, and say he can do no wrong; but would avoid all doubts, and not say, in real common parliamentary construction, that the king can do no wrong, or that he has forfeited his crown by male-administration. But suppose it the case of a lunatic, or infant, the nation may provide for the government; and were the king a person that took care of the government that he ought to have taken care of ——

Sir *Rob. Howard.* I differ in the circumstances of what has been said, though I agree in the main. There is an inconvenience in resting upon the word 'demise.' Richard ii. would have no laws but what were in his own breast; but our king would not be satisfied with arbitrary government in the laws temporal, but in the laws of the church too, thereby to influence our souls as well as our bodies; and, by an arbitrary government, to subvert the civil and ecclesiastical power; and it was no wonder, when a Jesuit and Papist sat in council, that all corporations were subverted, and parliament-men closeted. This was the design of Rd. ii. to try sheriffs, to pack a parliament, to make the people own their destroyers. But if the demise of the government fail, where is the foundation we are upon? It must be somewhere. By a legal and just trial, no man has wrong done him. The king has none done him, in disposing of the government, for he acts as a private man, he ought to act from his laws. When he acts by his will, and not by the laws, he is no king; for he acts by power and tyranny. I have heard, 'that the king has his crown by divine right,' and we (the people) have divine right too; but he can forfeit, if he break that pact and covenant with his people, who have right, by reason of their election, as well as in the name of Mr. King. This original of power, resistance or non-resistance, is judged by the power resolved by people and king. The constitution of the government is actually grounded upon pact and covenant with the people. If this be so, what remains but that the king has made abdication of the government, and at one time has lopped off both Church and State? Could he have compassed Liberty of Conscience, he would have cut off Church and State at one stroke, and settled Popery. Here has not been one thing unattempted to destroy us: and if this be so, it is my opinion that there is an abdication of the government, and it is devolved into the people, who are here in civil society and constitution to save them. And if divine right does consecrate all these violations of our laws, it is strange! If the king be of another religion from his people, and makes a combination with a foreign power, shall he carry all away

* Second son to the earl of Nottingham, and removed from being Solicitor General in 1686. In 1702 he was created lord Guernsey, and in 1714 earl of Aylesford.

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with him to destroy us? I am of opinion, 'that James 2. has abdicated the government.'*

Mr. *Pollexfen.*† The question that has been proposed is, 'Whether, by a voluntary departure of the king, the government is demised?' I would not have gentlemen surprized by the word 'voluntary going away;' there is more meant by that than you suppose. There is a descent of the crown, if a voluntary departure; and then what do you here, if you admit that? But if it be a 'demise,' then the crown is full by succession; and then too what do you here? If force has been upon the king, and then he fly, will you call this 'a voluntary departure?' Was it 'voluntary' his flight from Salisbury to London? The stronger did chase the weaker. If this is 'voluntary,' what means the noise of arms? And is all this 'a voluntary driving away?' I would not have you catched with this, to entangle the debate. It is an unnecessary question to carry at first sight; and if the crown be vacant, trouble yourselves no farther in the matter. If the crown be demised, you must think of the succession of it.

Mr. *Dolben.* I would not be thought to catch the house, by any motion from me. I must still call the king's departure, when he needed not, and might have stayed, though there was 'noise of arms,' yet if the king would not stick to his laws, nor redress the grievances of his people, I must call that 'a voluntary demise.' It is true, upon a demise, there must be a descent; but the question is, whether the crown be vacant, now the king is departed, and no body to fill it up?

Sir *James Oxenden.* It is 'a voluntary departure' in the king, to go away, and stir up foreign princes to bring a foreign power to destroy us. I cannot call it otherwise.

Sir *Henry Capel.* It is said, 'the king might have stayed, and called a parliament.' But Popery and a Protestant government are inconsistent. I move, that you will vote, that the Crown is vacant.

Sir *Rob. Sawyer.* The gentleman that first moved in this debate, put it upon 'a demise.' 'Devolution' and 'abdication' seem to be the same thing called by various authors. You have been moved for other words, and in case of 'abdication,' it is not difficult. As to the next step, there is a great difference between the throne being vacant by abdication, and dissolution of the government. The vacancy of the throne makes no dissolution of the government, neither in our law, nor any other. If the government be fallen to the people, which people we are, what do the lords and we here? If it be devolved upon the people, we have nothing to do here; we are not the people collectively: we are representatives of the people in the three estates of the nation, and the king. And our oaths of allegiance, which we take before we sit, are to the hereditary succession of the crown; the third estate, which is the house of commons, represents the freeholders and burghers, who are not the fourth part of the kingdom. If the government be devolved to the people, copy-holders, leaseholders, all men under 40*s.* a year are people. What needs the advice of the lords to reduce things to a settlement? Is it not then the right of all the people to send representatives, and our sitting under this frame of government is void, as we ought not to be here, so it restores not the rights of the kingdom. Restore those rights by what free parliament we can, in such a form, and frame, and constitution as the government will admit. What do the lords there? Are they representatives of the people? No; of their own estate only. If the government be devolved upon the people, what do the lords there? And we are not the people. Once a government did dispose of crowns. And they were not the fourth part of the kingdom that disposed of the crown in 1648. This has not only relation to ourselves, but to another nation, Scotland. If we proceed on a sandy foundation, we shall destroy all we do. The people have a judgment of assent or dissent, but not a superiority of determination. If he relinquish the possession of the throne, but not the title, whether does that amount to an abdication of the government? I take the king's departure out of the kingdom to be an abdication of the government. He refuses to govern, that acts otherwise than the laws direct. And he that will go out of the kingdom, does make an abdication and direliction of the whole government. In all I have read, I never met, in so short a reign, the laws so violated, and the prerogative so stretched. In his Declaration, he wishes that all his subjects were Catholics, and, if in his power, would certainly have effected it; we must all have been Catholics, or not safe. The Church and State were turned topsy-turvy. As to his suborning a parliament, this and Rd. 2. are the only instances I have met with, that so we might have had neither Liberty nor Property in the nation. His intention was to govern without law. The Protestant religion here was interwoven with all the Protestant States of Europe; and that principle justifies the prince of Orange's coming over, and all that joined with him; which interest, if it fall, all falls with it. From the time the king has withdrawn, here has been no application made from him; and therefore I believe he has no intentions to govern according to the constitution of the government: therefore no obligation remains upon us to him, in case this be an abdication of the government.

* "Sir Robert Howard entertained the committee with a long harangue; and he was the first who ventured to assert the Vacancy of the Throne, and the breach of the Original Contract, by a continued series of illegal acts (many of which he enumerated and displayed) throughout the whole course of king James's reign." Echard.

† "An honest and learned, but perplexed lawyer." Burnet. He was soon after made lord chief justice.

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Mr. Boscawen. I have hearkened to Sawyer a great while, but I know not how to understand, 'that the fourth part of the people of England are not here represented,' and 'that this is not a parliament.' I would know of him, what other way he can propose of calling a parliament, than what has been in calling this? I am of opinion, that, if we sit here till he finds a way to sit better than as you are, you may sit till doomsday. Gentlemen, in former parliaments, may remember they were told, 'that the king could not be true to his religion, if he did not what he has done:' and I believe none are willing to go into Egypt again. To settle things now, is the way to maintain both your Laws and Religion. If the king's going away be a demise, then you must supply the throne. And here is not only the king, but a little one beyond sea too, that will pretend. I would say no more, but 'that the Throne is void;' then take the best way you can; and there is but one to defend you from him that is gone, that endeavoured to destroy your laws. We must not fight with a bulrush: therefore declare 'that the Throne is void,' and fill it. And pray put the question, 'that the Throne is void.'

Sir *Wm. Pulteney.* I shall speak short to the question, whether 'abdication,' or 'the Throne void.' I would have both in the question, for what he has destroyed was without making any provision for the administration of the government. We come to supply what he has taken from us. Have not you made another determination of putting the government into another's hand for the present, which you have already, in effect, declared 'a demise?'

Mr. *Howe.* People were not free from slavery till the tyrant ran away. I will not say that any king may have the same guilt, but we may have the same fears of Popish lord-lieutenants set over us: therefore put into the question all this. The last use he made of the great seal was to pardon malefactors, that have reduced you to this condition.

Mr. *Finch.* I desire to explain myself. It is insinuated as if, from what I should have said, a loop-hole may be left for the king's return. I am so far from that, that I think there can be no safety in the king's return, by unanimous consent of the nation. I think the government not safe by his administration; but all men will agree to be secured. I did say no more. I did not mean to capitulate, but to establish things by such a regent during the king's life; if there may be such a security, all men will agree to it, and this is no loop-hole to let in the king again to the government; for the king by going away, &c. and his male-administration, ought not to be trusted; and we may fear that, in the regency, power may be exceeded: therefore we have a right to demand security, that we be invaded no more: yet the disposing of the crown is another question. All men can agree, that there is no security in his return. But whether his administration does so cease as to lose his titles, every man must swear to his vote, that he whom you shall place on the throne is lawful and rightful king.

Sir *Rob. Howard.** A regency and the king are all one. The question, as moved and amended, takes in the sense of the house. Much is said of the Succession; but we are the people; and threaten ourselves by ourselves when the question is asked, shall we dare to chuse? To talk of preserving the Succession as sacred, is to suppose the title of the Prince—a thing well cozened. If the young gentleman beyond the seas should die, the king of France will find another for you.

Lord *Fanshaw.* It is said the king has withdrawn himself. He is gone away by compulsion, in my judgment. I heard him say, That he was afraid of being seized by his own subjects. When he was at liberty at Feversham he came back. Have we power to depose? In law, the king can do no wrong; for that reason ministers are called to account There is no occasion for haste. Let the question be adjourned to another day.

Mr. *Roberts.* If the question is to have no other consequence than would follow on the king's natural demise, I will go nem. con.

Lord *Colchester* moves to report it presently.

Sir *Wm. Williams* moves the house to sit tomorrow, and receive the Report.

Sir *J. Knight* would immediately have a head.

Sir *Rowland Gwyn.* Time is precious, I would report now.

Mr. *Medlicot.* Security depends on dispatch.

Sir *J. Knight.* Consider the bleeding condition of Trade.

Vote declaring the Throne Vacant.] At length, the house came to this grand Resolution:—Resolved, "That king James the Second, having endeavoured to subvert the Constitution of the Kingdom, by breaking the original Contract between king and people, and, by the advice of Jesuits, and other wicked persons, having violated the fundamental Laws, and having withdrawn himself out of this Kingdom, has abdicated the Government, and that the Throne is thereby become vacant."† Which was agreed to by the house, and the lords concurrence was desired.

Further Debate on the State of the Nation.] Jan. 29. The house of commons went into a Grand Committee, on the State of the Nation.

Col. *Birch.* When I consider the extraordinary hand of God that brought us hither, and the freedom we are here met in, it amazes

* The remainder of this day's debate is transcribed from Lord Somers's Notes taken with a pencil. See Hardwicke Papers, vol. ii. p. 411.

† "The above complicated Resolution (when ratified by both houses) was perhaps the most remarkable of all the English Records." Echard.

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me; and I am not able to comprehend this work of God in such an extraordinary manner; and, concerning king James's deposing himself, it is the hand of God. These 40 years we have been scrambling for our Religion, and have saved but little of it. We have been striving against Anti-Christ, Popery, and Tyranny. If we go through with this work, let every one understand what he means: therefore I shall tell you what I mean. King James 1 was so fond of the Spanish match (though that proved a French match at last) that he lost the Palatinate by it: then followed pulling members out, and committing them to prison. When once king Charles 1 married a Papist, all things, from that time forward, went the contrary way; all things tended to Popery and a Civil War. At last I was in it, and, I thought, on the right side—(I am sure, I endeavoured to make it so before I left it.) When the two estates remonstrated, and begged that the Customs might not be levied without Law, and Ship-money, there were smooth tongues in this house then to carry it on. Then came the breaking the laws and liberties, when things were near a conclusion. It was not the fault of the ministers of the Church of England; nay, nor the Non-conformists, but Popery was in the box, and Idolatry. I remember what was said in this house, when the late king James was married to this queen: 'men will follow their Interest; and it was his interest to destroy the Protestant Religion, our Laws and Liberties.' Popery will not prosper but in an arbitrary, tyrannical soil. If there had never a book been written on this subject, yet men may see, that, if God had not stopped him, we had been led like sheep to the slaughter. If then we are like to be ruined, if governed by a Popish prince, my motion is, 'That you will vote it inconsistent with a Protestant State to be governed by a Popish Prince.'

Sir *Rd. Temple.* I hope this will have no debate; for we have found by experience, that a Popish king is inconsistent with the government of a Protestant nation.

Sir *Patience Ward.* The prospect of a Popish successor was that which laid all the plots against the life of the late king Charles, and the Protestant Religion.

Sir *Rob. Sawyer.* This debate is preparatory to what farther you intend to do. I move, 'that you will vote it inconsistent with a Protestant Government to have a Popish prince.' There is a possibility that a Papist may be saved, and a possibility that a Popish king may govern well; but where the Papists govern the king, it is next to an impossibility that the government should be Protestant.

Mr. *Dolben.* There is nothing in statute nor common law against a Popish prince, but it is against the interest of the nation.

Major *Wildman.* The lawyers tell you, 'there is neither common nor statute law against a Popish king;' but the government of this kingdom of England is an independant supremacy, that neither foreign potentate, either ecclesiastical or civil, has any thing to do here. There is no Popish prince but does acknowledge the Pope to be supreme; but it is treason to acknowlege that supremacy here: therefore to say, 'that there is no statute law, &c.' is strange to be averred by the long robe. I move, therefore, that you will not only declare it to be against the interest of the Protestant Religion to be governed by a Popish prince, but 'that it is against our law.' Our free independent government is not consistent with a nuntio from the Pope: 400 years together we have laboured to keep the Church of Rome from our government.

Sir *Rob. Sawyer.* Will that gentleman say, that the laws 400 years since, and some in Hen. 8th's time, were inconsistent with the Popish government? I am sure, without doors, it will be strangely thought of, if Hen. 8 should not be some time a Popish prince.

Major *Wildman.* Hen. 8 renounced Popery utterly. We speak of princes holding communion with the Church of Rome; and you may lay the word 'Papist' aside.

Mr. *Hampden.* I have a great deference to the learned person; but the Pope's supremacy was never heard of before the first nuntio came into England, at the instance of William the Conqueror, who found his clergy high, and therefore he got a foreign power over them, but complained afterwards, as the greatest grievance, of the Pope's power in Appeals, upon which the Statute of Provisors was made. Hen. 8 was the first prince that totally shook off the Pope's power, and the grounds justified him, being against the constitution of the government; and all agreed to it, and the laws against nuntios from the Pope. Q. Mary, not soon, prevailed with Cardinal Pole to come over for nuntio. I desire the question as moved.

Lord *Falkland.* For the honour of your proceedings, let what you do to-day be consistent with what you did yesterday. If it be inconsistent with the law to have a Popish king, pursue your Vote of yesterday.

Resolved, "That it hath been found, by experience, to be inconsistent with the safety and welfare of this Protestant kingdom, to be governed by a Popish Prince."

Mr. *Wharton.* You resolved, by Vote, yesterday, 'That the Throne was vacant;' and I suppose every gentleman, and those few that were against the Vote, are now for filling the throne, and re-settling the government; and I hope it will be done as near the ancient government as can be. It is a matter of the greatest weight, and deserves the greatest consideration. Consider of it a thousand years, and you cannot cast your eyes upon a person so well to fill it as the prince and princess of Orange. To them we owe all our safety; most of us, by this time, must either have been slaves to the Papists, or hanged. I hope, that, for the future, we shall have security and preservation from them, and put them in a condition

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of saving us from our dangers for the future. As you did yesterday, so I desire you will now call upon the gentlemen of the long robe to put you in some way practicable. I have read the story of Philip and Mary; that was not a good reign, and so not a good precedent; but I hope we shall be all happy under king William and queen Mary.

Lord *Falkland.* It concerns us to take such care, that, as the Prince of Orange has secured us from Popery, we may secure ourselves from Arbitrary Government. The Prince's Declaration is for a lasting foundation of the government. I would know what our foundation is. Before the question be put, who shall be set upon the Throne, I would consider what powers we ought to give the crown, to satisfy them that sent us hither. We have had a prince that did dispense with our laws; and I hope we shall never leave that doubtful. The king set up an Ecclesiastical Court, as he was Supreme Head of the Church, and acted against law, and made himself head of the Charters. Therefore, before you fill the throne, I would have you resolve, what power you will give the king, and what not.

Mr. *Garroway.* We have had such violation of our liberties in the last reigns, that the prince of Orange cannot take it ill, if we make conditions, to secure ourselves for the future; and in it we shall but do justice to those who sent us hither, and not deliver them up without very good reason.

Sir *Wm. Williams.* When we have considered the preservation of the laws of England for the future, then it will be time to consider the persons to fill the Throne. The Prince's Declaration has given us a fair platform. Some of your laws have been very grievous to the people, though not Grievances; and perhaps those occasioned arbitrary government. Those are to be redressed. Because king Charles 2 was called home by the Convention, and nothing settled, you found the consequence. Charles 2 was a young man, in the strength of his youth, and, you know, much money was given him, and what became of it? The act of the Militia is worthy your consideration, and he in whose hands you will put it should be our head. I take it to be your security to settle your safety for the future, and then to consider the person. I now speak for all England. I would consider purging Corporations, and arbitrary power given the late king by the judges: weak judges will do weak things; their master commands them; they read no books, and know nothing to the contrary. I could give many more instances.

Sir *Rd. Temple.* I hope you will not leave till you see how we got out of our rights. Secure your liberties, and you cannot better recommend the government to one to succeed than by settling these things. I will reduce my thoughts to three heads essentially necessary: 1. Encroachment upon Parliament, (tho' in the hands where you will place the government there may be no danger) to secure posterity; and you may have time to call persons to account that break parliaments, when they will not do what pleased; to provide for their certainty and frequency, and that persons obtain not Pardons when they have ruined the nation; and to provide for Elections of Parliaments, that Corporations may not be made tools to nominate whom they please; to provide against a Standing Army without consent of parliament, not in peace, when there is no war nor rebellion. An Army was no part of the government till the late king's time. The Militia Act was made use of to disarm all England. 2. Your care should be, that Westminster-hall be better filled with Judges, and not, under pretence of the king's prerogative, to give away all. That the Judges be 'during life,' and that they have Salaries instead of Fees: that Sheriffs make not unjust returns of juries, and that Westminster-hall have as little power as you can. Formerly Westminster-hall decided not great cases, but left them to parliament. The Judges now do not only *lex dicere* but *facere*. In new and difficult cases, this will be the way to preserve you from what they are bid to judge. 3. The Coronation-Oath to be taken upon entrance into the government; and, as we are sworn to our kings, so they to be sworn to protect us. Pursue the ends of the Prince's Declaration, with some such securities as I have mentioned, that these things may be taken care of; to recommend to posterity what you have done for them.

Mr. *Boscawen.* We know, that the Prince's Declaration pursues all those ends mentioned. But Arbitrary Government was not only by the late king that is gone, but by his ministers, and farthered by extravagant acts of the Long Parliament. The Act for regulating Corporations was upon a specious pretence to secure the crown, but had the end with the commissions for regulating Corporations. Though ever so loyal, yet if they differed from the designs of the ministry, they were put out. The Militia, under pretence of persons disturbing the government, disarmed and imprisoned men without any cause: I myself was so dealt with. There is a clause in the Militia-Act, for a week's tax after 70,000*l.* for trophies, and not to exceed it; but as it is now practised, 2 or 3 years have been collected together, without regard to the act. Arbitrary Power is ill in a prince, but abominable to one another. The Triennial Bill for parliaments was but a device, when we were going into slavery; but by such an act, if we have no redress of Grievances (as Mr. Vaughan, of this house, then said, who was as much for the king as any) 'better to have no law at all.' I move, that these things may be taken into consideration.

Resolved, "That, before the Committee proceed to fill the Throne, now vacant, they will proceed to secure our Religion, Laws, and Liberties."

Serjeant *Maynard.* I agree to the Vote; but I fear, if we look so much one way on Arbitrary Government, we may sit five years,

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and never come to an end of what has been moved. One says, 'in the Saxon time, the people were much puzzled. One king made one law, and another king another.' Another drives at a new Magna Charta. The former Parliaments cared not which way they run, so Pensions were paid. The management of the Militia was an abominable thing. Many speak, in coffee-houses and better places, of fine things for you to do, that you may do nothing but spend your health, and be in confusion. Take care of over-loading your horse, not to undertake too many things. I would go only to things obvious and apparent, and not into particulars too much.

Lord *Falkland.* We must not only change hands, but things; not only take care that we have a king and prince over us, but for the future, that he may not govern ill. Some, perhaps, are dissatisfied with the power, some with the army. It is for the people's sake we do all, that posterity may never be in danger of Popery and Arbitrary Power.

Mr. *Sacheverell.* Since God hath put this opportunity into our hands, all the world will laugh at us, if we make a half settlement. As the case stands, no man can tell that what he has is his own. Unless you look backward how men have been imprisoned, fined, severely dealt with; the same may happen to other gentlemen. We must look a great way backward. I cannot find three laws, from 20 years upwards, that deserve to be continued. In the great joy of the king's return, the parliament overshot themselves so much, and to redress a few Grievances they got so much Money, that they could live without you; pensions were agreed for so much in the hundred for all they gave; Warrants of Commitments, Arms taken from persons, &c. They were ill-affected to the government, because they endeavoured to chuse persons they liked not. You may look back a great way; but secure this house, that parliaments be duly chosen, and not kicked out at pleasure; which never could have been done, without such an extravagant Revenue that they might never stand in need of parliaments. Secure the Right of Elections, and the Legislative Power.

Mr. *Pollexfen.* First make a Settlement of the Laws, that they may be asserted, and those must all be consulted by lords and commons, and then settle the crown. Every man sees the nature of this proposition; if this be to confound you, it is a dreadful proposition: I am as much for amendment of the government as any man, and for repressing the exorbitances of it; but the way you are in will not settle the government, but restore king James again. If but a noise of this goes beyond sea, that you are making laws to bind your prince, it will tend to confusion. The greatest enemy you have cannot advise better. One kingdom some a lready, and this is in confusion. Some of the Clergy are for one thing, some for another; I think they scarce know what they would have: and the more we divide, the more it makes way for the Popish interest. Popery is the fear of the nation, and all that have voted against Popery may fear Popery. But now we begin to forget it. Formerly it was thought impossible that Popery should come in, and that the Tests would keep it out. But how can we bring to pass all these Proposals, before he is king? We cannot; and when he is king, perhaps he will not pass these into laws. To stand talking, and making laws, and in the mean time have no government at all! they hope better things from our actions abroad, and a better foundation of the Protestant interest. The Prince's Declaration is the cause of your coming hither, that the kingdom may be established, and the laws and government secured from being subverted again. If we stand talking here, we shall do as strange things as those who prevailed by arms in the late times; and, not coming to a Settlement, it ended in their own destruction, and never came into any settled government; so the authority of the king swept away all at last. We lately had a bill of Exclusion; it was talked of so long, that both parties suffered, one formerly, the other since. A law you cannot make till you have a king. The thing you go upon is not practicable. One gentleman is of opinion 'to take away all laws since this king came to 'the crown;' another 'to make a new Magna Charta;' If you sit till all these motions are considered, we may think to make our peace with king James as well as we can, and go home.

Mr. *Garroway.* I would not draw this debate out at length; somewhat must be done: a great many things have been named by several persons to be redressed. I hope we do not go about to sit here till all be done. All we can do for the present is, to represent to the Prince that these things may be done, and, under some short Heads, to present the Prince with what you would have done to give security to the government; and let an Oath be administered to him; and in a few days you may come to your end.

Mr. *Seymour.* We shall suffer by our doing more than by reason of not doing at all. Will you think fit to leave the dispensing power unquestioned in Westminster-Hall? Though the clock do not strike twelve at once, must it not strike at all? Will you do nothing, because you cannot do all? Will you let men go in the same practices they have formerly? Will you establish the Crown, and not secure yourselves? What care I for what is done abroad, if we must be slaves in England, in this or in that man's power? If people are drunk and rude below, as was complained of, must that stop proceedings in parliament?

Sir *Thomas Lee.* I find there is a difference in the committee, how to word the question. I know not how to propose words to reach every man's sense. If you put it so general, how our Liberties have been invaded, perhaps a few days will state it. There was an opinion, formerly, of the long robe that must be

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exploded, 'That the king may raise what Army he pleases, if he pay them.' That is the support of slavery, when there is other support to the king than the people's affections to their prince.

Col. *Birch.* I am as much afraid of losing time as any body: whereas disorders of the Army in Ireland are spoken of, they will be still worse, unless provision be made to keep us from Slavery and Popery. I differ from what gentlemen say, as to the time it will take you up. I think it will not take you a day's time, when you have filled the Vacancy of the Throne. Prepare what you would have repealed, and present it. As to the Fast moved for, I know not what we should fast for. I will not call to-morrow Sunday, (January 30.) for I do not find it called so in books: I would sit to-morrow, and I hope to make an end to-morrow. There is a Tax called Hearth-money; take that away, and the Prince will have ten times more safety than in all his Army; and that may be in one line.

Mr. *Hampden*, jun.* You are, by order, to consider the State of the Nation. Though you have voted, that king James has abdicated the crown, you have not done all; we are still free, and not tied by Oaths. The time presses hard, on many accounts; and to rise without doing more than filling the Throne that is vacant, is not for the safety of the people. It is necessary to declare the Constitution and Rule of the government. In the late Convention, there was a Vote passed, 'That the Government was in king, lords, and commons.' I move that the Journal may be inspected. You have voted, 'That king James has violated the Constitution of the nation,' call the chief governor what you will.

Mr. *Harbord.* You have an infallible security for the administration of the government: all the Revenue is in your own hands, which fell with the last king, and you may keep that back. Can he whom you place on the throne support the government without the Revenue? Can he do good or harm without it? It is reasonable that you should be redressed by laws; but unless you preserve your government, your papers cannot protect you. Without your sword, how will you be secured from the dangers from Ireland, and the mutiny of the Army? All may be lost, whilst you are considering.

Sir *Rd. Temple.* We here represent all the nation. Place the government in some person, and then provide for the rest.

Sir *Christ. Musgrave.* In justification of your Vote yesterday, to declare your Grievances, you are to declare wherein king James 2. has broken the laws, and whom you have put by the government. You must have wheels, before you can put the cart upon them. In the first place, put the question, "That you will proceed in asserting the Rights and Liberties of the nation; and that you will appoint a Committee to bring in general Heads, of such things as are absolutely necessary for securing the Laws and Liberties of the nation." A Committee was appointed accordingly.

Thanks voted to the Clergy, Army, and Navy.] The commons resolved, nem. con. "That the Thanks of this house be given to the Clergy of the Church of England, who have preached and written against Popery, and refused to read, in their Churches, the late king's Declaration for Toleration, in opposition to the pretended Dispensing Power, claimed in the reign of the late king James 2. and have opposed the late illegal Ecclesiastical Commission."

Resolved, nem. con. "That the Thanks of this house be given to the Officers, Soldiers, and Mariners, in the Army and Fleet, for having testified their steady adherence to the Protestant Religion, and being instrumental in delivering this kingdom from Popery and Slavery; and also to all such who have appeared in arms for that purpose."

Proceedings in the H. of Lords on the Vote of Vacancy.] On receiving the Vote from the commons declaring the Throne vacant, the house of lords resolved into a committee of the whole house, of which the earl of Danby was chairman. The first motion that was made, was, 'Not to agree with the Commons, That the Throne was vacant,' but only first to suppose it, for the present, leaving it to be farther examined afterwards, in order to cut short several other questions, by determining this first, 'Whether the Throne being vacant, it ought to be filled up by a Regent or a King?' This question was debated with great learning, much skill, and no little warmth: among the orators, the earl of Nottingham brought many arguments from the English history to support his opinion for a Regency with the regal power, leaving the title and dignity on king James; adding a fresh instance from Portugal, where Don Pedro had only the title of a Regent conferred upon him, while his deposed brother was alive. This Speech is said to have had so great an influence upon the house, that it would have been followed by the majority, had it not been strenuously opposed by the marquis of Halifax and the earl of Danby, who by their

* "Grandson of him who had pleaded the cause of England in the point of Ship-money, with king Charles 1. His father was a very eminent man, and zealous in the Exclusion. He was a young man of great parts, and one of the learnedest gentlemen I have ever known, for he was a critic both in Latin, Greek, and Hebrew. He was a man of great heat and vivacity, but too unequal in his temper." Burnet.

He was tried at the court of King's Bench in 1683, for a conspiracy to disturb the peace of the realm, and fined 40,000*l.* the most extravagant fine that had been ever set for a misdemeanor in that court. He was afterwards, on king James's accession, tried for high treason at the Old Bailey, for the same offence, and condemned, but his life was saved. He afterwards cut his own throat.

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great skill laid open the inextricable difficulties attending that proposal. So that the question being put to the vote, 51 were for a king, and 49 only for a regent; namely, the dukes of Somerset, Ormond, Southampton, Grafton, Beaufort and Northumberland; the earls of Kent, Pembroke, Clarendon, Rochester, Craven, Westmoreland, Scarsdale, Chesterfield, Litchfield, Yarmouth and Lindsey; viscount Weymouth, the lords Coventry, Brook, Leigh, Ferras, Maynard, Chandois, Jermin, Arundel of Trevise, Dartmouth, Godolphin, Griffin, and five more; the archbishop of York, the bishops of Norwich, Winchester, Ely, St. Asaph, Bath and Wells, Peterborough, Chichester, Rochester, St. Davids, Oxford, Gloucester and Lincoln. The earls of Huntingdon and Mulgrave did not appear in the house; and the lord Churchill likewise kept at home upon some indisposition. The archbishop of Canterbury was also absent; and indeed the prejudices conceived against a deposing power, as an art and act of Popery, had made so great an impression upon the minds of the clergy, that no bishops came into the opinion of filling up the Throne, except the bishops of London and Bristol. However, the party for a king was soon after strengthened by four dukes who came over to them, viz. the dukes of Ormond, Southampton, Grafton and Northumberland.—On the next day, Jan. 30, the lords proceeded farther upon the Grand Vote of the other house, and put this question, 'Whether or no there was an Original Contract between king and people?' Which Question occasioned many warm disputes; not a few maintaining, that kings held their crowns by divine right; which others vehemently denied, asserting, That all power originally belonged to the community, and to the king only by mutual compact. Thereupon the house being divided, 53 were for the last position, and 46 only for the negative; by which it appeared, that the party that were for a Regency began to lose ground. The next Question was, 'Whether king James had broke that Original Contract?' but this being so manifest, it was soon carried in the affirmative. On the next day, their lordships took into consideration the word 'Abdicated;' and concluded that 'Deserted' was more proper. They next examined the word 'Vacant' and put this Question, 'Whether king James having broke that Original Contract between him and his people, and deserted the government, whether the throne was thereby 'vacant?' This question was debated with more heat and contention than any of the former, and upon a division, one party, who maintained it as a maxim of our law, 'That the king never dies,' and therefore, 'that the Throne can never be vacant,' carried the negative of the question by 11 voices. From this, some peers presently inferred, that the crown was devolved upon the next heir; and moved that the Prince and Princess of Orange should be declared king and queen, which was also carried in the negative by five voices. The next day their lordships agreed to communicate their Resolutions to the house of commons; but before they rose, the marquisses of Hallifax and Winchester, the earls of Danby and Devonshire, the lord Delamere and others, to the number of 40, entered their Protestations against the Vote of the day before, namely, 'That the Throne was not vacant.'*

A tumultuous Petition set on foot.] Feb. 1. While these matters were warmly debated in the Convention and the town, and all men still in suspense which way they would be determined, this day some zealous persons set on foot the following Petition, and endeavoured to get it subscribed by the multitude indifferently, going to all public places to solicit men's hands: "To the lords spiritual and temporal assembled in the grand Convention, the humble Petition of great numbers of citizens, and other inhabitants of the cities of London and Westminster. Whereas, we are in a deep sense of the danger of delays, and perplexed debates about settling the Government, at this time vacant, by reason whereof the necessary ends of government cannot be duly administered, we humbly desire that his most illustrious highness the Prince of Orange, and his royal consort the Princess, may be speedily settled on the Throne, by whose courage, conduct and reputation, this nation and the Protestant Religion may be defended from our enemies at home and abroad; and that Ireland, now in a bleeding and deplorable condition, may be rescued from its miseries, and these kingdoms settled on a lasting foundation in Peace and Liberty."—Whereupon, his highness the Prince being informed of the ill consequences and scandal of this way of proceeding, caused the following Order to be made and published to suppress it: "By the Lord-Mayor, &c. Whereas his highness the Prince of Orange has been pleased to signify to me this day, that divers persons (pretending themselves to be citizens of London) in a tumultuous and disorderly manner have lately disturbed the present Convention of the lords and commons at Westminster, upon pretence of petitioning; it being regular and usual for the citizens of this city, that are under the apprehension of any Grievance, to make their application to myself, and the Court of Aldermen: therefore, with the advice of my brethren, the aldermen of this city, these are to require you, that you command within your ward, that they forbear any tumultuous disturbance, or assembly, as they will answer the contrary at their utmost peril."*

Feb. 2. Their lordships sent a Message to the commons, to acquaint them, That they had considered of their Vote of the 28th of January last, to which they concurred, with these two Amendments; first, instead of the word 'Abdicated,' they would have 'Deserted' be put in; and next, these words, 'And that the Throne is thereby vacant,' to be left out.

* Echard.

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Debate in the Commons on the Lord's Amendment of the Word 'Abdicated.'] Sir *Rd. Temple.* You have considered the word 'abdicated' as the only proper word. As for 'deserted,' I appeal whether it is a proper conclusion to the premises. The lords have left out the whole conclusion in the matter. They have agreed 'that king James has subverted the Constitution of the government, has violated the original contract, and has withdrawn himself, &c.' Consider whether this be a proper conclusion. By doing these acts, he has most plainly, 'abdicated the government;' by the premises plainly, by subverting the constitution, he will govern by an arbitrary power, though sworn to rule according to original contract. The hour he does it, it is a renunciation of the government. Hottoman, and all approved authors, call this 'Abdicating the Government.' Henry 6. upon fear of the earl of Warwick, went out of the kingdom, and left it; and, that, by all the Judges, was judged 'a Demise.' I desire you will not agree with the lords.

Mr. *Hampden.* The dispute with the lords is about a word changed. It is your word now, the word of the house, and I was ever of opinion the most proper word. 'Forsaken, forfeited,' and other words, were mentioned here; but, I think, 'abdicating' was in request among the Romans. When a parent 'abdicated' his child, he gave him no maintenance: though the child never forsook the father, yet if he deserved it, he was 'abdicated.' If you say such things have been done as violating the original contract, &c. is not 'Self-Abdication' more than desertion? If it comes to be disputed, you will then see the value of the word. Should you say, king James has deserted, is gone from Rochester, and may come again, for doing a thing, justly to be abdicated, the question is, whether you will retain or change your word; agree or not agree with the lords.

Sir *Tho. Clarges.* This is a great business before you; all tends to the settlement of the nation. Union is so necessary at this time, that I hope we shall agree with the lords in the Amendments. 'Desertion' seems more proper than 'Abdication,' which is not so needful nor proper. As for precedents, it must be voluntary. That of Charles 5 and the queen of Sweden, tant-amount to that of Alphonso king of Portugal; his government was destructive to his people. Edw. 2. committed all manner of irregularities and oppressions, by the advice of wicked counsellors, to subvert all the laws of the nation. In Riley's Collections of Records, the parliament at Bristol, upon report that the king had forsaken the kingdom, (*decessit regno* as the words of the Record are, had left the kingdom,) by unanimous consent, elected the duke of Aquitain Custos regni. Therefore I move to agree with the lords in the word 'Desertion.'

Mr. *Finch.* I would agree with the lords, for those very reasons offered against it. The departure of Edw. 4. out of the kingdom was judged 'a Demise.' If you say king James deserted the kingdom, the question is still entire; whether he did 'abdicate' or 'desert,' is not material. There is good reason why you should agree with the lords; and I take 'desert' to be the more proper word: I am sure it is most proper to agree with the lords. But whether 'deserted' or 'abdicated,' I would not differ with the lords; for the consequence is entire to you, and you may agree.

Sir *Rd. Temple.* I am mis-recited, and therefore desire to be rectified. I did not say 'that king James deserted the kingdom,' but the government. His renunciation is by something done by fact, not by solemn instrument.

Lord *Falkland.* If this Vote be grounded merely upon the king's leaving the kingdom, he may come again, and resume the government. But 'Abdication' relates to breaking your laws; and though the lords stand by the premises, yet they desert the conclusion, in leaving out 'the Throne vacant.' I would therefore not agree with the lords.

Mr. *Dolben.* The precedent I cited the other day, and inferred my opinion upon was, that Edw. 4.'s withdrawing himself from the kingdom and the government, was a demise, and it was so judged by the opinion of all the Judges; and from all considerations together, you pronounced it an 'Abdication' in king James. But barely 'a Demise,' and 'a withdrawing,' without the consideration of all the breaches he had made in the government, the house did not call it, but the word 'Abdication.' I would agree with the lords if I could agree with ourselves, and our own senses, first. The lords have so far concurred with your Vote, 'That king James has broken the original contract betwixt the king and people.' The premises must agree with the conclusion; ours is the more proper inference, and we must stand by it.

Sir *Robert Sawyer.* Authors that write of 'Abdication' say, 'to desert' is 'to abdicate.' All that the lords mean by 'Abdication,' you mean by 'Desertion.'

Sir *Rob. Howard.* 'Desertion' is a Latin word, and 'Abdication' is another. If there be no more intended by the lords than the word, then the king has only deserted the government, and the Throne is not vacant; and the king may have the help of a Regency. They are both Latin words alike, and both English: 'Abdication' arises from 'vacated.' If it be not so, the lords have made room for their last Amendment, 'That the Throne is not vacated.'

Mr. *Tipping.* The lords are of opinion that the throne is full, but they tell you not who is in the throne. I am sorry to hear of a great number that would bring the king back again; how pernicious that would be to all good Protestants, you may easily judge. I am sure it will be of ill consequence to join the Prince of Orange with him in the throne. But I believe

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the true reason of this disagreeing with your Vote is the delay that the house has made, that they proceeded not to fill the Vacancy of the Throne. If you had proceeded speedily to fill the throne, possibly you would have had another Answer. Put the question of disagreeing with the Lords, and then declare, 'that you will supply the Vacancy of the Throne.'

Sir *Tho. Littleton.* The lords cannot expect that we, who have said the Throne is vacant, should not intend to fill it up: the best way is, to go on and fill it up, and put all out of doubt.

The question being put, "That the house do agree with the lords in these two Amendments," it passed severally in the negative, nem. con.

Sir *Rd. Temple.* No doubt but you can maintain your Reasons for your Vote, at a Conference. If the Throne be full, what do we here? I move you to prepare Reasons, &c. for the Lords at a Conference.

A Committee was appointed accordingly.*

Feb. 4.—Mr. Hampden reported the following Reasons, from the committee, why they cannot agree with the lords Amendments of their Vote of the 28th of January.—"To the first Amendment proposed by the lords to be made to the Vote of the Commons, of the 28th of Jan. instead of the word 'abdicated,' to insert the word 'deserted,' the commons do not agree; because the word 'deserted' doth not fully express the conclusion necessarily inferred from the premises, to which your lordships have agreed; for your lordships have agreed, That king James 2nd hath endeavoured to subvert the constitution of the kingdom, by breaking the Original Contract between king and people, and hath violated the fundamental laws, and withdrawn himself out of the kingdom. Now, the word 'deserted' respects only the withdrawing, but the word 'abdicated' respects the whole; for which purpose the commons made choice of it.—The commons do not agree to the second Amendment, to leave out the words, 'And that the Throne is thereby vacant.' 1. Because they conceive, that, as they may well infer from so much of their own Vote as your lordships have agreed unto, That king James the 2nd has abdicated the government, and that the Throne is thereby vacant; so that if they should admit your lordships Amendment, That he hath only deserted the government; yet even thence it would follow that the Throne is vacant as to king James the 2nd deserting the government, being in true construction deserting the Throne. 2. The commons conceive they need not prove unto your lordships, that as to any other person, the Throne is also vacant; your lordships (as they conceive) have already admitted it, by your addressing to the Prince of Orange the 25th of Dec. last, to take upon him the administration of public affairs, both civil and military; and to take into his care the kingdom of Ireland, till the meeting of this Convention. In pursuance of such Letters, and by your lordships renewing the same Address to his highness, (as to public affairs, and the kingdom of Ireland) since you met, and by appointing days of public thanksgivings to be observed throughout the whole kingdom, all which the commons conceive do imply that it was your lordships opinion, that the Throne was vacant, and to sig-

* "Thus ended this busy week. The next day was Sunday; and both houses took advantage of it; not to rest from their labours, but to gain time to strengthen their respective cabals, and further their several purposes. The opposing lords, who had now the ascendant in the house, had still a Regency in view, as their main point, and subordinately cast their eyes on the two princesses. Against a Regency, the two great rivals, Halifax and Danby, as we have seen, co-operated; but, at the same time, laboured separately; the former for the Prince, and the latter for his consort. 'The earl of Danby,' says Burnet, 'sent one over to the Princess, and gave her an account of the present state of that debate; and desired to know her own sense of the matter; for, if she desired it, he did not doubt but he should be able to carry it for setting her alone on the Throne. She made him a very sharp answer; she said, she was the Prince's wife, and would never be other than what she should be in conjunction with him, and under him; and that she would take it extremely unkindly, if any, under a pretence of their care of her, would set up a divided interest between her and the Prince. And, not content with this, she sent both lord Danby's Letter, and her Answer, to the Prince. Her sending it thus to him was the most effectual discouragement possible to any attempt for the future to create a misunderstanding or jealousy between them.' He adds, 'the Prince bore this with his usual phlegm: for he did not expostulate with the earl of Danby upon it, but continued still to employ and to trust him.'—And again, 'During all these Debates, and the great heat with which they were managed, the Prince's own behaviour was very mysterious. He staid at St. James's; he went little abroad; access to him was not very easy; he heard all that was said to him, but seldom made any answers; he did not affect to be affable or popular; nor would he take any pains to gain any one person over to his party; he said, he came over, being invited, to save the nation; he had now brought together a free and true representative of the kingdom; he left it therefore to them to do what they thought best for the good of the kingdom; and, when things were once settled, he should be well satisfied to go back to Holland again. Those who did not know him well, and who imagined that a crown had charms which human nature was not strong enough to resist, looked on all this as an affectation, and as a disguised threatening, which imported that he would leave the nation to perish unless his method of settling it was followed.'" Ralph.

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nify so much to the people of this kingdom. 3. It is from those who are upon the throne of England (when there are any such) from whom the people of England ought to receive protection; and to whom, for that cause, they owe the allegiance of subjects; but there being none now from whom they expect regal protection, and to whom, for that cause, they owe the allegiance of subjects, the commons conceive, the throne is vacant."

A Conference with the Lords thereon.] Resolved, "That the earl of Wiltshire do go up to the Lords, to desire a Conference upon the subject matter of the Amendments."—The earl of Wiltshire reports, "That he having attended the lords, to desire a Conference, they had given Answer, That they did consent to a Conference immediately in the Painted Chamber."

Resolved, "That the Committee, to whom it was referred to prepare Heads of Reasons at a Conference with the lords, be the Managers of the said Conference."

Mr. Hampden reports from the Committee appointed to manage the Conference with the lords, That they had attended the lords at the Conference, and communicated unto their lordships the Reasons why this house doth not concur with their lordships in the said Amendments.

Feb. 5. Mr. Hampden reports from the Conference with the lords, that the earl of Nottingham spoke to this effect:

"That the lords had desired this Conference with the commons, that they might be as happily united to the commons in opinion, as they are inseparable in their interest; and that they are, at this time, uneasy that they cannot concur with the commons in every thing; because it is of so great a concern to the nation, and from so great and wise a body." That he then delivered what the lords had done in reference to the subject matter of the last Conference, and said, 'That the lords did insist upon the first Amendment of the Vote of the house of commons of the 28th of Jan. last, instead of the word 'abdicated' to have the word 'deserted.' 1. Because the lords do not find, that the word 'abdicated' is a word known to the common law of England, and the lords hope the commons will agree to make use of such words, only, whereof the meaning may be understood according to law, and not of such as will be liable to doubtful interpretations. 2. Because in the most common acceptation of the civil law, abdication is a voluntary express act of renunciation, which is not in this case, and doth not follow from the premises, that king James 2. by having withdrawn himself, after having endeavoured to subvert the constitution of the government, by breaking the Original Contract between king and people, and having violated the fundamental laws, may be more properly said to have abdicated than deserted.'—He said, the lords did insist on the second Amendment, to leave out the words, 'And that the Throne is vacant, for this Reason: "For that although the lords have agreed, that the king has deserted the government, and therefore have made application to the Prince of Orange, to take upon him the administration of the government, and thereby to provide for the peace and safety of the kingdom, yet there can be no other inference drawn from thence, but only that the exercise of the government by king James 2. is ceased: so as the lords were, and are willing, to secure the nation against the return of the said king into this kingdom; but not that there was either such an abdication by him, or such a vacancy in the Throne, as that the crown was thereby become elective, to which they cannot agree: 1. Because, by the constitution of the government, the monarchy is hereditary, and not elective. 2. Because no act of the king alone can bar, or destroy, the right of his heirs to the crown; and therefore in answer to the third Reason alledged by the Commons, if the Throne be vacant of king James 2. allegiance is due to such person as the right of succession doth belong to."

The question being put, That this house do agree with the lords in the said first Amendment, it passed in the negative.

The question being put, That this house do agree with the lords in the said second Amendment: the house divided. Yeas 151. Noes 282. And so it was resolved in the negative.

DEBATE AT A FREE CONFERENCE RELATING TO THE WORD "ABDICATED."] Resolved, "That a Free Conference be desired with the lords upon the subject matter of the last Conference." Ordered, "That it be referred unto sir Robert Howard, Mr. Pollexfen, Mr. Paul Foley, Mr. serj. Maynard, Mr. serj. Holt, lord Falkland, sir George Treby, Mr. Somers, Mr. Garroway, Mr. Boscawen, sir Tho. Littleton, Mr. Palmer, Mr. Hampden, sir Henry Capel, sir Tho. Lee, Mr. Sacheverel, major Wildman, col. Birch, Mr. Ayres, sir Rd. Temple, sir Henry Goodrick, Mr. Waller, sir John Guyse, to manage the Conference."

Ordered, "That Mr. Dolben do go up to the lords, and desire a Free Conference with the lords upon the subject matter of the last Conference."—Mr. Dolben reported, "That he having, according to the order of this house, attended the lords, to desire a Free Conference with their lordships, upon the subject matter of the last Conference, they had agreed to a Free Conference presently in the Painted Chamber."

And the Managers went to the Free Conference* in the Painted Chamber, which was thus opened by Mr. Hampden.

* "In this Conference, according to the sense of the whole nation, the commons had clearly the advantage on their side. The lords had some more colour for opposing the word 'abdicate,' since that was often taken in a sense that imported the full purpose and consent of him that abdicated; which could not be pretended in this case. But there were good authorities brought, by which

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My lords; the commons have desired this Free Conference from your lordships upon the subject matter of the last Conference, that they may make appear unto your lordships, that it is not without sufficient reason, that they are induced to maintain their own Vote, to which your lordships have made some Amendments; and that they cannot agree to those Amendments made by your ldp.'s for the same reasons. —My lords; the commons do very readily agree with your lordships, That it is a matter of the greatest concernment to the kingdom in general, its future peace, and happy government, and the Protestant interest, both at home and abroad, that there be a good issue and determination of the business now in debate between both houses, and as speedy a one as can consist with the doing of it in the best manner. This way of intercourse between both houses by free conference, where there is full liberty of objecting, answering, and replying, the commons think the best means to attain this end, and to maintain a good correspondence between both houses, which is so necessary at all times, but more especially in the present conjuncture; this, my lords, will bring honour and strength to the foundation that shall be laid after all our late convulsions, and discourage our enemies from attempting to undermine it. —It is true, my lords, the present difference between your lordships and the commons is only about a few words; but the commons think their words so significant to the purpose for which they are used, and so proper to the case unto which they are applied, that in so weighty a matter as that now in debate, they are by no means to be parted with.—The word 'abdicated,' the commons conceive, is of larger signification than the word your lordships are pleased to use 'desert,' but not too large to be applied to all the recitals in the beginning of the commons Vote, to which they meant it should be applied. Nor ought it to be restrained to a voluntary express resignation, only in word or writing, overt-acts there are that will be significant enough to amount to it.— My lords; that the common law of England is not acquainted with the word, it is from the modesty of our law, that it is not willing to suppose there should be any unfortunate occasion of making use of it: and we would have been willing, that we should never have had such an occasion as we have, to have recourse to it. Your lordships next Amendment is, That your lordships have left out the last words in the commons vote, 'And that the Throne is thereby vacant.'—My lords; the commons conceive it is a true proposition, 'and that the Throne is vacant;' and they think, they make it appear that this is no new phrase; neither is it a phrase that perhaps some of the old records may be strangers to; or not well acquainted with. But they think it not chargeable with the consequence that your lordships have been pleased to draw from it, 'That it will make the crown of England become elective.' If the Throne had been full, we know your lordships would have assigned that as a reason of your disagreement, by telling us who filled it; and it would be known by some public royal act, which might notify to the people in whom the kingly government resided; neither of which had been done; and yet your lordships will not allow the Throne to be vacant.—My lords, I am unwilling to detain your lordships longer, from what may be better said for your lordships satisfaction in these matters, by those whose Province it is: I am to acquaint your lordships, that the commons do agree, it is an affair of very great importance. Here are other gentlemen that are appointed to manage this Conference, and will give their assistance to bring it, we hope, to a happy conclusion, in the agreement of both houses, in this so very considerable a point.

Mr. *Somers*. My lords, what is appointed me to speak to, is your lordships first Amendment, by which the word 'abdicated,' in the commons vote, is changed into the word 'deserted;' and I am to acquaint your lordships what some of the grounds are that induced the commons to insist upon the word 'abdicated,' and not to agree to your lordships Amendment.—1st, The first Reason your lordships are pleased to deliver, as for your changing the word, is, that the word 'abdicated' your lordships do not find is a word known to the common law of England; and therefore ought not to be used: and the next is, that the common application of the word amounts to a voluntary express act of renunciation, which (your lordships say) is not in this case, nor what will follow from the premises.—My lords, as to the first of these Reasons, if it be an objection, that the word 'abdicated' hath not a known sense in the common law of England, there is the same objection against the word 'deserted:' for there can be no authority, or book of law produced, wherein any determined sense is given to the word 'deserted;' so that your lordships first Reason hath the same force against your own Amendments, as it hath against the term used by the commons.—The words are both Latin words, and used in the best authors, and both of a known signification; their meaning is very well understood, though it be true, their meaning be not the same: the word 'abdicated' doth naturally and properly signify entirely to renounce, throw off, disown, relinquish any thing or person, so as to have no farther to do with it; and that whether it be done by express words or in writing, (which is the sense your lordships put upon it, and which is properly called resignation or cession) or, by doing such acts as are inconsistent with the holding or retaining of the thing; which the commons take to be the present case, and there-

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it appeared, that when a person did a thing upon which his leaving any office ought to follow, he was said to 'abdicate.' But this was a critical dispute; and it scarce became the greatness of that assembly, or the importance of the matter." Burnet.

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fore made choice of the word 'abdicate,' as that which they thought did, above all others, most properly express that meaning: and in this latter sense it is taken by others, and that it is the true signification of the word, I shall shew your lordships out of the best authors.—The first I shall mention is Grotius, "de Jure Belli & Pacis," l. 2. c. 4. §. 4. 'Venit enim hoc non ex jure civili, sed ex jure naturali, quo quisque suum potest *abdicare*, & ex naturali presumptione qua voluisses, qui creditur, quod sufficienter significavit.' And then he goes on, 'recusari hæreditas non tantum verbis, sed etiam re potest, & quovis indicio voluntatis.'—Another instance, which I shall mention, to shew that for the abdicating a thing, it is sufficient to do an act which is inconsistent with the retaining of it, though there be nothing of an express renunciation, is out of Calvin's Lexicon Juridicum, where he says, 'generum *abdicat*, qui sponsam repudiat:' He that divorceth his wife, *abdicates* his son-in-law. Here is an abdication without express words; but is by doing such an act as doth sufficiently signify his purpose.—The next author, that I shall quote, is 'Brissonius de Verborum significatione,' who hath this passage, 'Homo liber qui seipsum vendit, *abdicat* se statu suo;' that is, He who sells himself, hath thereby done such an act as cannot consist with his former estate of freedom: and is therefore properly said, se *abdicasse* statu suo.'—Budæus in his Commentaries "ad legem secundam de origine juris," expounds the words in the same sense, 'abdicare se magistratu, est idem quod abire penitus magistratu:' He that goes out of his office of magistracy, let it be in what manner he will, has *abdicated* the magistracy.—And Grotius in his book De Jure Belli & Pacis, l. i. c. 4. § 9. seems to expound the word 'abdicare,' by 'manifeste habere pro derelicto:' that is, That he who hath 'abdicated' any thing hath so far relinquished it, that he hath no right of return to it. And that is the sense the commons put upon the word. It is an entire alienation of the thing, and so stands in opposition to 'dicare:' 'Dicat qui proprium aliquod facit; abdicat qui alienat,' so says Pralejus in his Lexicon Juris. It is therefore insisted upon as the proper word by the commons.—But the word 'deserted' (which is the word used in the Amendment made by your lordships) hath not only a very doubtful signification; but in the common acceptance both of the civil and canon law, doth signify only a bare withdrawing, a temporary quitting of a thing, and neglect only, which leaveth the party at liberty of returning to it again. 'Desertam pro neglecto,' says Spigelius in his Lexicon: but the difference between 'deserere' and 'derelinquere,' is expressly laid down by Bartolus, upon the 8th law of the 58th title of the 11th book of the Code; and his words are these, 'nota diligenter, ex hac lege, quod aliud est agrum deserere, aliud derelinquere; qui enim derelinquet, ipsum ex pœnitentia non revocat: sed qui deseret, intra biennium potest.' Whereby it appears, my lords, that that is called desertion, which is temporary and relievable: that is called dereliction, where there is no power or right to return. So in the best Latin authors, and in the civil law, 'Deserere exercitum' is used to signify soldiers leaving their colours; cod. lib. 12. §. 1. And in the Canon Law to desert a benefice, signifies no more than to be non-resident; so is Calvin's Lexicon, Verb. Desert. secund. Canones.—In both cases, the party hath not only a right of returning, but is bound to return again: which, my lords, as the commons do not take to be the present case, so they cannot think that your lordships do: because it is expressly said, in one of your Reasons given in defence of the last Amendment, That your lordships have been, and are willing to secure the nation against the return of king James; which your lordships would not in justice do, if you did look upon it to be no more than a negligent withdrawing, which leaveth a liberty to the party to return.—For which Reason, my lords, the commons cannot agree to the first Amendment, to insert the word, deserted,' instead of 'abdicated;' because it doth not, in any sort, come up to their sense of the thing: so, they do apprehend, it doth not reach your lordships meaning, as it is expressed in your Reasons; whereas they look upon the word 'abdicated,' to express properly what is to be inferred, from that part of the Vote to which your lordships have agreed, That king James II. by going about to subvert the constitution, and by breaking the original contract between king and people, and by violating the fundamental laws, and withdrawing himself out of the kingdom, hath thereby renounced to be a king according to the constitution, by avowing to govern by a despotic power, unknown to the constitution, and inconsistent with it; he hath renounced to be a king according to the law, such a king as he swore to be at his coronation, such a king to whom the allegiance of an English subject is due; and hath set up another kind of dominion, which is to all intents an 'abdication, or abandoning of his legal title, as fully as if it had been done by express words.—And, my lords, for these Reasons the commons do insist upon the word 'abdicated,' and cannot agree to the word 'deserted.'

Mr. Serj. *Holt.* My lords; I am commanded by the commons to assist in the management of this Conference, and am to speak to the same point that the gentleman did, who spoke last to your lordships first Amendment. As to the first of your lordships Reasons for that Amendment, (with submission to your lordships) I do conceive it not sufficient to alter the minds of the commons; or to induce them to change the word 'abdicated,' for your lordships word 'deserted.'—Your lordships Reason is, That it is not a word that is known to the common law of England. But, my lords, the question is not so much, whether it be a word as ancient as the common law, (though it may be

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too) for that will be no objection against the using it, if it be a word of a known and certain signification; because that, we think, will justify the commons making use of it, according to your lordships own expression. That it is an ancient word, appears by the authors that have been quoted, and it is frequently met with in the best of Roman writers, as Cicero, &c. and by the derivation from 'dico,' an ancient Latin word.—That now it is a known English word, and of a known and certain signification with us, I will quote to your lordships an English authority, and that is the Dictionary set forth by our countryman Minshew, who hath the word 'abdicare' as an English word, and says that it signifies to 'renounce,' which is the signification the commons would have of it: so that I hope your lordships will not find fault with their using a word that is so ancient in itself, and that hath such certain signification in our own language.—Then, my lords, for that part of your lordships objection, That it is not a word known to the common law of England, that cannot prevail; for your lordships very well know, we have very few words in our tongue that are of equal antiquity with the common law; your lordships know the language of England is altered greatly in the several successions of time, and the intermixture of other nations; and if we should be obliged to make use only of words then known and in use, what we should deliver in such a dialect would be very difficult to be understood.—Your lordships second Reason, for your first Amendment in changing the word 'abdicated,' is, because in the most common acceptation of the civil law, abdication is a voluntary express act of renunciation. That is the general acceptation of the word, and, I think the commons do so use the word in this case, because it hath that signification: but I do not know, whether your lordships mean a voluntary express act or formal deed of renunciation: if you do so I confess I know of none in this case. But, my lords, both in the common law of England, and the civil law, and in common understanding, there are express acts of renunciation that are not by deed; for if your lordships please to observe, the government and magistracy is under a trust, and any acting contrary to that trust is a renouncing of the trust, though it be not a renouncing by formal deed: for it is a plain declaration, by act and deed, though not in writing, that he who hath the trust, acting contrary, is a disclaimer of the trust; especially, my lords, if the actings be such as are inconsistent with, and subversive of this trust: for how can a man, in reason or sense, express a greater renunciation of a trust, than by the constant declarations of his actions to be quite contrary to that trust?—This, my lords, is so plain, both in understanding and practice, that I need do no more but repeat it again, and leave it with your lordships, That the doing an act inconsistent with the being and end of a thing, or that shall not answer the end of that thing, but quite the contrary, that shall be construed an Abdication and formal Renunciation of that thing.

The Earl of *Nottingham.* Gentlemen, you of the committee of the commons; we differ from you indeed about the words 'abdicated' and deserted;' but the main Reason of the change of the word and difference, is upon the account of the consequence drawn in the conclusion of your Vote, that the throne is thereby vacant; that is, what the commons mean by that expression? whether you mean, it is so vacant as to null the Succession in the hereditary line, and so all the heirs to be cut off? which we say will make the crown elective. And it may be fit for us to settle that matter first; and when we know what the consequence of the throne being vacant means in the Vote, as you understand it, I believe we shall much better be able to settle the difference about the two words.

Mr. Serj. *Maynard.* My lords, when there is a present defect of one to exercise the administration of the government, I conceive, the declaring a vacancy, and provision of a supply for it, can never make the crown elective.—The commons apprehend there is such a defect now; and, by consequence, a present necessity for the supply of the government; and that will be next for your lordships consideration, and theirs afterwards. If the attempting the utter destruction of the subject, and subversion of the constitution, be not as much an abdication, as the attempting of a father to cut his son's throat, I know not what is.—My lords, the constitution, notwithstanding the vacancy, is the same; the laws that are the foundations and rules of that constitution are the same: but if there be, in any particular instance, a breach of that constitution, that will be an abdication, and that abdication will infer a vacancy. It is not that, the commons do say, the crown of England is always and perpetually elective; but it is more necessary that there be a supply where there is a defect, and the doing of that will be no alteration of the monarchy, from a successive one to an elective.

The Bishop of *Ely.* Gentlemen, the two Amendments made by the lords to the Vote of the commons, are as to the word 'Abdicated,' and as to the Vacancy of the throne: that 'abdicated' may be tacitly by some overt acts, that gentleman, (I think I may name him without offence) Mr. Somers, very truly did allege out of Grotius; but, I desire to know, whether Grotius, that great author, in treating on this subject, doth not interpose this caution, If there be a yielding to the times: if there be a going away, with a purpose of seeking to recover what is, for the present, left or forsaken: in plain English, if there were any thing of force or just fear in the case, that doth void the notion of abdication: I speak not of male-administration now, of that hereafter.

Mr. Serj. *Maynard.* But, my lords, that is not any part of the case declared by the com-

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mons in this Vote; when the whole kingdom, and the Protestant religion, our laws and liberties, have been in danger of being subverted, an enquiry must be made into the authors and instruments of this attempt; and if he, who had the administration intrusted to him, be found the author and actor in it, what can that be, but a renunciation of his trust, and consequently his place thereby vacant?—My lords, Abdication (under favour) is an English word; and, your lordships have told us, the true signification of it is a Renunciation. We have indeed, for your lordships satisfaction, shewn its meaning in foreign authors; it is more than a deserting the government, or leaving it with a purpose of returning. But we are not, I hope, to go to learn English from foreign authors; we can, without their aid, tell the meaning of our own tongue. If two of us make a mutual agreement to help and defend each other from any one that should assault us in a journey, and he that is with me turns upon me and breaks my head, he hath, undoubtedly abdicated my assistance and revoked the said agreement.

The Lord Bishop of *Ely*. The objection of the lords against the word 'abdicated,' is, That it is of too large a signification for the case in hand. It seems to be acknowledged, that it reacheth a great way; and therefore the lords would have a word made use of, which (by the acknowledgment of that learned gentleman) signifieth only, The ceasure of the exercise of a right. If there be such a defect as hath been spoken of, it must be supplied; there is no question of that. And I think we have, by another Vote, declared, 'That it is inconsistent with our laws, liberties, and religion, to have a papist to rule over this kingdom.' Which I take to be only as to the actual exercise and administration of the government.—It is Grotius's distinction between a right, and the exercise of that right; and, as there is a natural incapacity for the exercise, as sickness, lunacy, infancy, doating old age, or an incurable disease, rendering the party unfit for human society, as leprosy, or the like; so I take it, there is a moral incapacity: and that I conceive to be a full irremoveable persuasion in a false religion, contrary to the doctrine of Christianity. Then there must be a provision, undoubtedly, made for supplying this defect in the exercise, and an intermediate government taken care for; because become necessary for the support of the government, if he to whom the right of Succession doth belong makes the exercise of his government impracticable, and our obedience to him, consistently with the constitution of our religion, impossible: but that, I take it, doth not alter that right, nor is an abdication of the right.—Abdication, no doubt, is by adoption an English word; and well known to English men conversant in books: nor is it objected, that it is not a word as ancient, and it may be more ancient than the common law of England; we find it in Cicero, and other old Roman writers. But as to Cicero, I would observe that there is a double use of the word, sometimes it is mentioned with a preposition, and then it signifies the renouncing an actual exercise of right, as 'abdicare a triumpho:' and sometimes it hath the accusative case following it, and then it signifies the renouncing of the very right, as that which was mentioned, 'abdicare magistratum;' so that the signification (as the lords say in their Reason) is doubtful: and such words, we hope, the commons will not think fit to use in a case of this nature and consequence, as ours now in debate.—And besides the lords apprehend, that great inconveniencies will follow upon the use of this word, if it mean a renouncing absolutely of the right. It seems the commons do not draw the word 'abdicated' from his withdrawing himself out of the kingdom; for then 'deserted' would (no doubt) have answered. That abdication is the same whether a man go out of the kingdom or stay in it; for it is not to be esteemed according to the place, but the power. If a man stays in the kingdom, this is 'abdicare,' with a preposition, to abdicate the exercise of the government, but not the right of governing, according to the constitution; and to such an abdication (if it be so declared) my lords, I believe, may soon agree.—Then, gentlemen, there is another distinction in those authors that write concerning this point, which are chiefly the Civilians; there may be an Abdication that may forfeit the power of a king only; and there may be one that may forfeit both that and the crown too. It is a distinction indeed in other words, but to the same sense: I will tell you presently why I use it. Those Abdications, that are of power only, are incapacities; whether those I call natural and involuntary, as defects of sense, age, or body, or the like; or moral and voluntary, as contrariety in Religion; an instance whereof there was lately in Portugal, which was a forfeiture only of the power, and not of the name and honour of a king; for though the administration was put into the younger brother's hand, the patents and other public instruments ran in the elder brother's name.—This is, without all doubt, naturally an Abdication in the full extent of the word; nor do I here (as I said) consider whether that the king be gone out of the kingdom, or stay in it; but only, whether he be fit for the administration, which must be provided for, be he here, or gone away.—But the highest instance of an Abdication is, when a prince is not only unable to execute his power, but acts quite contrary to it; which will not be answered by so bare a word as endeavour. I take these to be all the distinctions of abdications.—Now if this last instance of an Abdication of both power and right, take place in a successive monarchy, the consequence will be, that there is a forfeiture of the whole right; and then that hereditary succession is cut off; which I believe is not intended by the commons: there is indeed one instance of the use of such an abdication in monarchy, and that is, that of Poland; and such an abdication there

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makes the throne vacant, and those with, and in whom the power is invested of making laws, (to wit, the senate) appoint one to fill it: but that, and whatever other instances of the like kind, these may be all of elective kingdoms; for though some of them are, or may be in kingdoms now hereditary, yet they were, in these times, elective, and since altered into hereditary successions.—
—But here is one thing that is mentioned in this Vote, which I would have well considered, for the preservation of the Succession, and that is the Original Compact: we must think sure that meant of the Compact, that was made at the first time, when the government was first instituted, and the conditions that each part of the government should observe on their part; of which this was the most fundamental, That king, lords, and commons, in parliament assembled, should have the power of making new laws, and altering of old ones. And that being one law which settles the Succession, it is as much a part of the Original Compact as any: then if such a case happens, as an Abdication in a successive kingdom, without doubt, the compact being made to the king, his heirs, and successors, the disposition of the crown can not fall to us, till all the heirs do abdicate too. There are indeed many examples, and too many interruptions in the lineal succession of the crown of England: I think, I can instance in seven since the Conquest, wherein the right heir hath been put by: but that doth not follow, that every breach of the first original contract, gives us power to dispose of the lineal succession; especially, I think, since the statutes of queen Eliz. and king James 1 that have established the Oath of Allegiance to the king, his heirs, and successors, the law is stronger against such a disposition: I grant that from William 1 to Henry 8 there have been seven interruptions of the legal line of hereditary succession; but, I say, those statutes are made since that time, and the making of new laws being as much a part of the original Compact, as the observing old ones, or any thing else, we are obliged to pursue those laws till altered by the legislative power, which singly, or jointly, without the royal assent, I suppose, we do not pretend to; and these laws being made since the last interruption, we are not to go by any precedent that was made before the making those laws.—So that all that I conceive ought to be meant by our Vote, is but a setting aside the person that broke the Contract: and, in a successive kingdom, an 'Abdication can only be a forfeiture as to the person himself.—I hope, and am persuaded, that both lords and commons do agree in this, Not to break the line of Succession, so as to make the crown elective. And if that be declared, that this 'Abdication' of king James 2 reaches no farther than himself, and that it is to continue in the right line of Succession, that, I hope, will make all of one mind in this important affair.

The **Earl of *Clarendon.*** As I remember, Mr. Somers, who spoke to the signification of the word 'abdicated,' did quote Grotius, Calvin's Lexicon, and other civil lawyers, where the express words make it to be a voluntary act, and so are all the instances that ever I read or heard of, that is, there either was some formal Deed of Renunciation, or Resignation; or some voluntary act done of the party's own; and such whereby they have shewn they did divest themselves of the royalties.—I think truly, gentlemen, it is very apparent that the king, in this case, hath done nothing of this nature: it is indeed said by that learned and ingenious gentleman Mr. Somers, that it may arise from the facts, that in the Vote it has been declared he hath done it, by breaking the fundamental laws, and the Original Contract; and endeavouring to subvert the constitution of the kingdom. I will not discourse the particulars that have been alleged to make out this charge; but I may say this much in general, that this breaking the Original Contract is a language that hath not been long used in this place; nor known in any of our law-books, or public records. It is sprung up, but as taken from some late authors, and those none of the best received; and the very phrase might bear a great debate, if that were now to be spoken to. Mr. Somers did likewise speak something to the particular case, and the grounds of the Vote; he said, the king is bounded by law, and bound to perform the laws made, and to be made. That is not denied; I would take notice, that his obligation thereunto doth not proceed from his Coronation-Oath; for our law saith, He is as much king before he is crowned, as he is afterwards: and there is a natural allegiance due to him from the subjects immediately upon the descent of the crown upon him. And though it is a very requisite ceremony, to put him under a farther obligation by the conscience of his oath; yet I think it will not, nor can be denied but that, as king, he was bound to observe the laws before; and no body will make that Oath to be the Original Contract, as I suppose.
—But, my lords and gentlemen, if you do admit that it was never intended by the house of commons, to relate any farther than to this king himself, I believe my own opinion would concur to secure us against his return to govern us: but then, why is there such a contention about a word? Doth all this imply more than desertion?—But it is said, that 'Abdication' doth imply a perfect Renunciation, which I cannot see how it is in this case, so as to leave us at liberty to supply as we please, and break the line of succession.—Mr. Serj. Maynard says, that it is not indeed to make the government perpetually elective. I would know what he means by perpetually: our breaking through the Line now, by a choice out of the lineal course, is an alteration and a precedent: and why may not others take the same liberty we do? And will not that make it perpetually elective?—But truly, I think, no act of ours can alter the lineal Succession; for, by all the

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laws we have now in being, our government appears to be hereditary in a right line of descent: and upon any descent, when any one ceaseth to be king, allegiance is by law due to his legal heir, as successor, as well before coronation as after.—I was in great hopes that you would have offered something in answer to one of my lord's Reasons, against that part of the vote which declares 'the Throne to be vacant;'—That no act of the king's alone can bar or destroy the right of his heir to the crown, which is hereditary, and not elective. And then, if this matter goes no farther than king James 2 in his own person, how comes the Vacancy and the Supply to be devolved upon the people? For if he only be set aside, then it is apparent, whither the crown is to go, to the person that hath the next right of succession; and consequently there is no vacancy.

The Earl of *Nottingham*. Gentlemen, I would not protract time, which is now so necessary to be husbanded; nor perplex debates about any affair like that which now lies before us: it is not a question barely about words, but things, which we are now disputing.—The word 'abdicated,' it is agreed by Mr. Somers, is a word of art; and he hath told us what its signification is, from those that are skilled in the art to which it belongs: he doth acknowledge that it is no law-word among English lawyers; nor known to the common law: but then, he saith neither is the word, used by the lords, 'deserted.'—I agree to him, that neither the one nor the other are words used in our law; but the inference I would draw thence is this, that we have no words applicable to this case; because we never before had such a case; and we must not draw inferences of law in such a case, that are not deducible from rules well known in our laws.—I will not dispute what the sense of the word 'Abdication' is in the civil law; but that it is a civil law word is agreed to by me; and if it be, for that reason I am against using of it; because I am so much in love with our own laws, that I would use no words in a case that so much concerns our legal constitution, but what are fetched from thence.—I hope I shall never see our old laws altered; or if they be, God forbid we should be the voluntary agents in such an alteration.—But then we are told the word 'deserted' doth not reach our case; because the signification of the word is but a temporary leaving or forsaking of his power, which he may re-assume; nay, which in some cases there is a duty upon him to return unto. If that were all, Mr. Somers hath given himself an Answer to that Objection, out of what he alledges of the lords Reasons, who have declared, that they are willing to secure the nation against the return of king James into this kingdom; and will therefore concur with the commons in any act, that shall be thought necessary to prevent such his return: so that it should seem we were agreed in that matter; and if that were the point, we should find words proper soon enough to express our meaning by. But I find neither of these words will, on the one side or on the other, be allowed to signify the meaning; therefore we should (as I take it) come presently to think of some other that would. But the Reason why my lords did chiefly insist upon the alteration of the word 'abdicated,' was because they did apprehend, that it being a word not known to our laws, there might be other inferences drawn from it, than they do apprehend our laws will warrant, from the case, as it is stated in the fact of this Vote; and, as they conceive is done in the concluding of the throne's being vacant.—Therefore, I think, it would shorten the present debate, if we did settle that point first; and as we frequently, in parliamentary proceedings, postpone this and that paragraph in a Bill, till some others that may be thought fit to be determined first be agreed to; so we should postpone the debate about the word 'abdicate,' till the vacancy of the throne be settled: for if we were sure that the throne were, or were not vacant, we should easily light upon what word were proper to be used in this case.—I should therefore propose that we might debate that first; because if there be an English word of known signification in our law, which should signify no more than renouncing for a man's self; and which would not amount to so much as setting aside the right of others, that word may be used; and if no other, the word renouncing itself may be taken, which would be best agreed to.—Acting against a man's trust (says Mr. Serjeant Holt) is a renunciation of that trust, I agree it is a violation of his trust to act contrary to it; and he is accountable for that violation, to answer what the trust suffers out of his own estate; but I deny it to be presently a renunciation of the trust, and that such a one is no longer a trustee.—I beg his pardon if I differ from him in opinion, whom I acknowledge to have much more learning in his profession, than I can pretend unto; but if the law be as he says, in a private case, then I must beg leave to forbear giving my opinion, in a case of this public nature that is now before us, till I know what such a trust is, and what the law says in such a case.—If indeed you do pretend 'that the Throne is vacant,' and both houses agree to that conclusion, I think it will be no matter what word is used about it: but if we do not agree to that conclusion, I think it will be afwards easy to shew which is the fittest word to be stood upon; or to agree upon some other. I pray therefore (to shorten the debate) that you gentlemen would speak to this point first; and when that is resolved, I hope we shall easily come to an agreement about the other.

Sir *George Treby*. I think, my lords, that we may not consent to begin at the end, and first to enquire of the conclusion, before the premises are settled: for the 'Vacancy of the Throne' follows, as an inference drawn from the acts of the king, which are expressed most fully by the word 'Abdication;' and to en-

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quire what the consequence is, when the fact is doubtful, from which the consequence is to ensue, is beginning at the wrong end; till we state the fact, we can assign no consequence at all to it: therefore, my lords, I think the present debate is to begin, where the difference between the two houses doth begin, and that is at the word 'abdicated;' and when that is over, we shall regularly come to the other point in difference.—We are gone too far, when we offer to enquire into the Original Contract, Whether any such thing is known or understood in our law or constitution? or, whether it be new language amongst us? and I offer this to your lordships consideration for two Reasons. First, it is a phrase and thing used by the learned Mr. Hooker, in his book of Ecclesiastical Polity, whom I mention as a valuable authority, being one of the best men, the best churchman, and the most learned of our nation in his time, and his works are very worthily recommended by the testimony of king Charles 1. He alloweth, That government did originally begin by Compact and Agreements. But I have yet a greater authority than this to influence this matter, and that is your lordships own, who have agreed to all the Vote but this word, 'abdicated,' and 'the Vacancy of the Throne.' And therefore so much is enough to be said to that: and to go back to debate what is not in difference, is to confound ourselves, instead of endeavouring to compose differences.—And truly, my lords, by what is now proposed, I think, we are desired to go as much too far forwards, when the 'Vacancy of the Throne' is proposed to be the question to be first disputed before the 'Abdication,' from which it is inferred.—But sure I am, it is very much beyond what the Vote before us doth lead us unto, to talk of the right of those in the Succession: for that goes farther than the very last part of the Vote; and it is still to lead us yet farther, to say any thing about making the crown elective: for, I hope, when we come to answer your lordships Reasons, we shall easily make it out, that it is not in this case; neither was there any occasion given by this vote to infer any such thing: we shall therefore keep to the points as they are, both in order of place in the vote, and of reason in the thing; and, as we have done hitherto, speak to the words 'abdicated and 'deserted,' the words to be disputed about in the first place. Another lord did give one Reason against the using the word 'abdicated,' Because it is a word belongs to the civil law; and said, He would by no means exchange our own English common law for that. I entirely concur with that noble lord in that point; but he did agree to us also, That there is no such word in our common law as 'deserted;' that is, which should signify, by the stamp the law puts upon it, any sense applicable to the matter in hand.—Then if we must not use our word, because unknown to our common law; neither must we use your lordships for the same reason, and so shall be at an entire loss what word to use; and so, indeed, they may well come to consider the conclusion first, who leave us at uncertainties on what terms we are to discourse: and there cannot be a greater confusion in any debate, than to state a conclusion without the premises; which we must do, if we cannot agree how to word the fact we infer from.—My lords, I shall not much differ from what in general has been said concerning the sense of the word 'abdicated;' for it seems to be agreed on all hands that it is a Renunciation: Neither will I contend for an 'involuntary Abdication;' because I think it means a 'voluntary Act:' but truly what your lordships mean, in your Reason against it, by the word 'express,' I cannot so well understand.—That a king may 'renounce' his kingship, I think, may be made out both in law and fact, as well as any other Renunciation; and that, as far as I can discern by your lordships Reasons, and this day's debate hitherto, is not intended to be denied by any. Indeed, some of my lords have told us, That there it is meant of the exercise of a right which may be renounced, without renouncing that right. Whether that be a true distinction or no, is not very material; but if it be, that the very kingship itself (as including a right to govern) may be 'renounced,' and hath been, it will be no difficulty to make out, by instances in all countries, not only where the crown is, or was, elective, but also where it was hereditary and successive'—If a king will 'resign' or 'renounce,' he may do so, as particularly Charles the 5th.

The Earl of *Pembroke.* That was an express solemn Renunciation.

Sir *George Treby.* My lords, the particular manner of doing it, is, I take it, not matter in debate just now before us, till it be settled whether a king can 'abdicate' at all, or 'renounce' his kingship at all; this then being granted, That a king may renounce, may resign, may part with his office, as well as the exercise of it, then the question indeed is, Whether this king hath done so or no?—That he may do it, I take it for granted, it being an act of the will: then let us now enquire into the facts, as set out in the Vote, whether this will of his be manifest. For that you have heard it may be discovered several ways; the discovery may be by writing, it may be by words, it may be by facts: Grotius himself, and all the authors that treat of this matter, and the nature of it, do agree, That if there be any word, or action, that doth sufficiently manifest the intention of the mind and will, to part with his office, that will amount to an Abdication, or Renouncing.—Now, my lords, I beg leave to put this case, That had king James 2 come here into the assembly of the lords and commons, and expressed himself in writing, or words, to this purpose; 'I was born an heir to the crown of England, which is a government limited by laws made in full parliament, by king, nobles, and commonalty; and, upon the death of my last predecessor, I am in pos-

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session of the throne; and, now I find, I cannot make laws without the consent of the lords and representatives of the commons in parliament; I cannot suspend laws that have been so made, without the consent of my people: this indeed is the title of kingship I hold by original contract, and the fundamental constitutions of the government, and my succession to and possession of the crown, on these terms, is part of that contract. This part of the contract I am weary of, I do renounce it, I will not be obliged to observe it; nay, I am under an invincible obligation not to comply with it; I will not execute the laws that have been made; nor suffer others to be made, as my people shall desire, for their security in religion, liberty, and property, which are the two main parts of the kingly office in this nation.' I say, suppose he had so expressed himself, doubtless this had been a plain renouncing of that legal, regular title which came to him by descent: if then he by particular acts, such as are enumerated in the Vote, has declared as much, or more than these words can amount to, then he thereby declared his will to renounce the government: he hath, by these acts mentioned, manifestly declared, that he will not govern according to the laws made; nay, he cannot so do; for he is under a strict obligation, (yea the strictest) and superior to that of the original compact between king and people, to act contrary to the laws, or to suspend them.—By the law, he is to administer justice, and to execute his office according to the tenour of those laws; and the Coronation Oath obligeth him likewise to consent to such laws as the people shall chuse: but, on the contrary, by that unfortunate persuasion (in point of Religion) that he hath embraced, he is obliged to suspend the laws that defend the established religion, and to treat it, as it has been (as we well know) called, as the 'North-'ern Heresy;' and, under pain of damnation, to extirpate it: and in order to it, did sap and repeal all the legal fences of it, without consent of parliament. What the endeavours and practices of that kind have been in the last reign, I suppose, we are not now to be told of, or instructed in: and if (as is very plain) this doth amount to a manifest declaration of his will, no longer to retain the exercise of his kingly office, thus limited, thus restrained, then in common sense, as well as legal acceptations he has sufficiently declared his renouncing of the very office. As for his departure out of the kingdom, it is not material, whether it was voluntary or involuntary; but it is sufficient, that his acting declares, *quo animo*, he went away; he no longer could pursue what he designed; and the contrary of which he was so strongly obliged unto by the duty of his office and relation, and the obligation of the Original Contract, as likewise his own Coronation-Oath; and then he desires no longer to be here.—So that taking both these things together, that he will not; nay, he cannot (as thus persuaded in point of Religion) govern according to law; and thereupon hath withdrawn himself out of the kingdom: it is a manifest declaration of his express renouncing and parting with his kingly office. And therefore I cannot depart from insisting upon this word 'abdicated,' which doth so well correspond to the fact of the case, and so well express the true meaning of the commons in their Vote: nor can we consent to the postponing this point, till the other, about 'the 'Vacancy of the Throne,' be determined; for this is the very foundation upon which we are to proceed for establishing the superstructure of the other conclusion.

The Earl of *Nottingham.* This learned gentleman that spoke last, says, it is necessary to prefer the premises before the conclusion, as being the foundation to the superstructure. Truly, I apprehend, that this word 'abdicated' was part of the conclusion, and not of the premises; the Vote runs thus, That by breaking the Original Contract, having endeavoured to subvert the constitution of the kingdom, and having withdrawn himself out of the kingdom, he has abdicated the government, and the throne is thereby vacant.—I take it to be (as I say) part of the conclusion, the other part being joined by a copulative; therefore that which is but the other part of the conclusion, is not to be inferred from the other part of the premises. But take it to be (as you say,) That the Vacancy of the Throne is another distinct conclusion from all that preceded, as the premises, and therefore it is to be considered last. I would then beg the favour of you, gentlemen of the house of commons, to answer me one question about this point of Abdication: Whether you mean by Abdication, a renouncing for himself, or for himself and his heirs?—If you mean only Abdication for himself, it will have a different influence upon the debate and resolution of the case, as to the meaning of that you call the conclusion; for then, How can the Throne be vacant?—But if it be meant for himself and his heirs, then I apprehend it is no more than what you say at the end, 'That the Throne is indeed vacant;' and then this Abdication cannot be part of the premises, but must be the same thing with, or part of the conclusion. I will not undertake to dispute, Whether a king of England may, or may not renounce his kingdom. For my own part, I think he can, and I may go so far in agreement with those that have spoken to this point, to yield that he may do it by implicit acts, contrary to the kingly office.—For a king to say, he will not govern according to law; and for a king to act wholly contrary to law; and do that which would subvert the constitution, is (I think) the same thing.—But then I must say also, That I think there is a difference between saying so, and doing something inconsistent with what the laws require; for every deviation from the law is a kind of breach of the fundamental laws: for I know no law, as laws, but what are fundamental constitutions; as the laws are necessary, so far as to support the

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foundation.—But if every transgression, or violation, of the law, by the prince's connivance or command, were such a breach of the fundamental laws, as would infer an Abdication, then were it in vain to call any of his ministers or officers to account for any such action.—Then the action is the king's, and not theirs; and then adieu to the maxim of a king's not doing wrong: and we may have recourse to that other respondent superior, as more effectual satisfaction.—I take this matter to be so plain, as to the distinction that I have mentioned, that nothing can be more: and it has been thought so essentially necessary to have it clear and manifest, that those two great instances of Edward 2 and Richard 2 were express solemn renunciations, and those confirmed in parliament by the lords and commons, by the act of deposing them. Therefore I cannot infer from the facts enumerated in the Vote, That this should be an abdication for himself and his heirs.—But therefore, because in this first point it is disputable what is meant by a word not of known signification in the law, it might, I think, do well to consider, what is to be inferred from it: and therefore all I have now said is only to this purpose, that either both make one conclusion, or else the latter cannot be inferred from the former.

Sir *George Treby.* I beg leave to say something to what this noble lord has last spoke unto: when I called this point of the Vacancy of the Throne a conclusion, I did not mean altogether to exclude abdication from being a conclusion from the particulars enumerated before; for, indeed it is in the nature of a double conclusion: one, from the particular facts mentioned, that thereby king James has abdicated the government. The other, from the abdication, that thereby the 'Throne is vacant:' by the instanced acts, he hath abdicated the government; and by his abdicating the government, 'the Throne is vacant.' As to the rest of that which his lordship is pleased to say, I perceive he does (as he must) agree with me, that a king may renounce by acts, as well as words, or writings. But then I would add, and agree with his lordship also, That God forbid, every violation of the law, or deviation from it, should be reckoned an abdication of the government. I desire to deliver myself from the imputation of any such absurd conceit.—When a king breaks the law in some few particular instances, it may be sufficient to take an account of it from those evil ministers that were instrumental in it, why such a thing was done, which was against the laws? Why such a law was not executed by them, whose duty it was to see it put in execution? You may, in ordinary cases of breaking the law, have remedy in the ordinary courts and course of justice.—But sure! he does not take this to be such a case, or these to be ordinary violations of the law: and therefore in extraordinary cases, the extraordinary remedy is to be recurred unto; for the king having a limited authority, by which he was obliged to keep the laws made, as to the executive part of the government, and to observe the constitution for making such new laws, as the people should find necessary, and present him for his consent; when he doth violate, not a particular law, but all the fundamentals; not injure a particular person in Religion, Liberty or Property, but fall upon the whole constitution itself, what doth all this speak?—He therein saith, 'I will no more keep within my limited authority, nor hold my kingly office upon such terms. This title I had by the Original Contract between king and people; I renounce that, and will assume another title to myself: that is, such a title, as by which I may act as if there were no such law to circumscribe my authority.'—Where shall any man come to have redress in such a case as this, when the malefactor comes to be party, unto whom all applications for relief and redress from injuries should be made, and so he himself shall be a judge of his own breaches of law? This most apparently was the case as to the Quo Warrantos, which was a plain design to subvert the constitution in the very foundation of the legislature.—It is because the king hath thus violated the constitution, by which the law stands, as the rule both of the king's government, and the people's obedience, that we say, he hath abdicated and renounced the government; for all other particular breaches of the law, the subject may have remedy in the ordinary courts of justice, or the extraordinary court of parliamentary proceedings: but where such an attempt as this is made on the essence of the constitution, it is not we that have brought ourselves into this state of nature, but those who have reduced our legal well-established frame of government into such a state of confusion, as we are now seeking a redress unto.

The Earl of *Rochester.* The lords have given their Reasons why they altered the word 'abdicated;' because it is a word not known to the common law, and of doubtful signification: therefore it would be well if the commons would please to express their own meaning by it. I believe my lords would be induced to agree, that the king hath abdicated, that is, renounced the government for himself, if you mean no farther than that; and if you do so, why should you not be pleased to explain yourselves, that every one may know how the matter stands, and to preserve a good correspondence between both houses, in such a juncture and conjunction as this. But if you do mean any thing more by it than Abdications for himself only, though their lordships should agree to the using of the word 'abdicated;' yet this would prove a greater argument against their agreeing in the other point, about the Vacancy of the Throne: therefore we would be glad to have you explain yourselves what you mean by it.

Then there was a little pause.

Mr. *Hampden.* If the lords have nothing further to offer upon this point, it will be fit for

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us to go on to the other Amendment made by the lords to our Vote.

No lord offering to speak, the commons proceeded to the second Amendment.

Mr. *Sacheverel.* My lords; your lordships second Amendment to the commons Vote, (to wit, to leave out the words, 'and that the Throne is thereby vacant,') the house of commons cannot agree with your lordships to that Amendment; and they do conceive they have many and great reasons why they should not do it. But, my lords, they very much wonder how it comes here to be laid upon them (as it seems to be, by one of your lordships Reasons) that they, by using those words of Abdication and Vacancy, signify an intention of making an alteration of the constitution of the government.—I would not misrepresent your lordships words, or misrepresent your meaning: but you are pleased to say, that you cannot agree to such an Abdication or Vacancy, as that the crown should thereby become elective: as if the commons had thoughts of making the kingdom elective, when no such thing was either meant by them, or can be deducted from their words. But, my lords, one Reason why they differ from you is, they think (upon the nature of your proceedings) they are in the right, to insist upon their Vote, as they sent it up to your lordships: and they conceive, as to all the Reasons your lordships have been pleased to give them for your Alterations, not one of them hath so much argument in them, as they might well expect.—The commons Reason for their disagreeing to this Amendment was, because they conceive (that, as they may well infer) from so much of their own Vote, as your lordships have agreed unto, That king James 2 hath 'abdicated' the government; and that the Throne is thereby vacant: so if they should admit your lordships Amendments, that he hath only deserted the government, yet, even thence would follow, 'It is vacant as to king James 2 deserting the government, being, in true construction, deserting the throne.'—Now, to this they do desire, that your lordships will consider and see, whether you give any answer to this reason, or rather, whether you do not leave the matter still in the dark; and (in truth) leave the nation in a perpetual state of war.—Your lordships answer to that, that although you have agreed, that the king has deserted the government, and therefore you have made application to the prince of Orange, to take upon him the administration of the government, and thereby provide for the safety and peace of the kingdom; yet there can be no inference drawn from thence, but only that the exercise of the government by king James 2 was ceased: so, as that the lords were, and are willing, to secure the nation against the return of the said king into this kingdom; but not that there was either such an 'abdication' by him, or Vacancy in the Throne, as that the crown thereby became elective; to which they cannot agree. I desire now to know of your lordships, what part of this Reason hath given an answer to what the commons said in their first Reason; that they may very well conclude from their own Vote, as to what your lordships have therein agreed to, that the Throne is vacant, as to king James 2; deserting the government, and deserting the throne, being, in true construction, the same. Instead of answering this Reason, your lordships come and apply it here, only to a bare giving over the exercise of the government by king James: and pray, my lords, let us consider where we are.—If the case be so, then king James 2, who has only left the exercise, continues in the office, and is king still; and then all the acts that we have done in this Convention, are wholly (as we conceive) not justifiable; you are in no place or station to relieve yourselves, or nation, in this exigence; unless you will think of setting up another Regency by your own authority, without his consent; which, I conceive, by the laws of England, you cannot do.—What then follows upon all we have done? We have drawn the nation into a snare, by the steps we have taken; and leave all in such an intricacy, as we have no power by law, to deliver them out of; nor can we answer for what we have done, unless the king should die, and that would leave the Succession uncertain.—My lords, I only apply myself, to consider the Reasons of your lordships, for insisting upon this second Amendment; because, I conceive, your lordships have therein given no answer to the Reason first given by the commons, why they cannot agree to your lordships Amendment.

Mr. *Pollexfen.* My lords; your own Reasons (under favour) do shew, that your lordships do intend, that the king is still in the government: this, I think, is most apparent out of your own Reasons. For, when you have declared, that the king hath 'deserted' the government, and then say, no inference can be drawn thence, but only that the exercise of the government by king James 2 was ceased; then you do thereby still say, that king James 2 is in the government; for if only the exercise be ceased, the right doth still remain: then I am sure we have no reason to agree with their lordships in that point.—Next, my lords, truly we cannot see how this thing that you would have can be inferred from your own Vote, that only the exercise of the government by king James is ceased; since you do not say that he deserted the exercise of the government. And if your lordships had any purpose to express your meaning by a public Vote, that only the exercise ceased, surely your lordships would have put in the word 'Exercise' there: but when in your Vote you say the government was 'deserted,' you cannot mean only the exercise of it.—And that is the first Reason that the commons give your lordships, why we cannot by any means admit of your lordships Amendment, because Throne and Government are in true construction the same; but the Exercise of the Government only (as you express it) and the Government itself (if your

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Reason conclude right) are not the same: and we are to reason from the words expressed in the Vote.—Next, my lords, we say, it cannot be inferred from the words, as they rest in your lordships Vote, that only the exercise of the government, as to king James II. did cease. For if we read that part about deserting the government, with the rest of the particulars that go before, his endeavouring to subvert the constitution of the kingdom, breaking the Original Contract, violating the fundamental laws, and withdrawing himself out of the kingdom; then can any man of understanding think that this deserting of the government can be any thing else, but somewhat that is agreeable to all those precedent acts, which are not a ceasing of the exercise of the government only, but a destruction of the government itself?—But besides, my lords, under favour, the administration or exercise of the kingly government is in construction and consideration of law all one and the same: and, I think, nobody that would reason aright from thence can say there is any distinction between government and the exercise of the government; for whosoever takes from the king the exercise of the government, takes from the king his kingship; for the power and the exercise of the power are so joined that they cannot be severed. And the terms themselves (taking them as the law of England, which we are to argue from in this case, teacheth them) are so co-incident, that they cannot either subsist without consisting together: if a man grant to another the government of such a place, this imports the exercise of the government there, to be granted thereby. As if the Islands belonging to this crown and dominion of England, (as the Plantations abroad) if the king grants to any one the government of Jamaica, or the like, sure no one will say, that that is not a grant of the exercise of the government there. So that wherever a government is granted, the exercise of that government is meant and included, and therefore the supposed distinction may be something indeed, if they be only notionally considered; but it is a notion altogether disagreeing to the laws of England.—When your lordships say in your Reasons, That the exercise of the government as to King James 2 is ceased, which is as far as you can go in this point, the commons can by no means agree to this Reason; for by the words so used (the exercise ceased) we apprehend, that you mean the kingship continueth still in him, and that only the exercise is gone.—And if it be so, and it be utterly unlawful, and as great a crime (as what law saith it is not?) to take away from the king the exercise of the government, as to take from him the government; then it may do well for your lordships to consider, whether you are not guilty of the same crime and thing which you would decline by your Amendment.—The commons therefore cannot admit, that there should be a taking away of the exercise of the government from the king, any more than the taking away the government which (we say) he hath himself given away by 'Abdication.' And if king James be our king still, we cannot by any means agree to the keeping of him out of the kingdom; for if it be his right to be king still, God forbid but that he should enjoy it, and be admitted to the exercise of it again.—Then, my lords, for the Conclusion that your lordships have added to your Reason, (as making it from the very words of your Vote,) That it would infer such a vacancy in the throne, as that the crown should thereby become elective; this, we conceive, is a conclusion, that hath no premises either from our actions, or our sayings, or our votes, or any thing else in this case; nay, it is quite varying from all the premises. But, when such a conclusion can be shewn to follow from them, then it will be time enough for us to give our Answer to it.—But, my lords, this is that we do insist upon; that if the right of kingship be still (after all that is agreed on both hands) due to him, we cannot in justice agree to keep him from it. And if it be not his due right, but by these acts, his subversion of the constitution, his breaking the Original Contract, and violation of the fundamental laws, he hath abdicated it (as we say,) and this Abdication hath put him by his right, and so his right is gone from him (as we conceive it is); then, I think, we may lawfully go on to settle the peace and welfare of the nation.—But the right to be still in him, to have a regency upon him without his own consent, or till his return, we take it to be a strange and unpracticable thing, and would be introductive of a new principle of government amongst us. It would be setting up a Commonwealth instead of our ancient regulated government, by a limited monarchy; then, I am sure, we should be justly blamed: and therefore we can by no means submit to your lordships Alterations of our Vote, upon any of the grounds and reasons that have as yet been offered.

The Earl of *Clarendon*. As to what Mr. Pollexfen hath offered, I desire to observe a word or two, and that is from the commons second Reason, for their disagreeing to their lordships Amendments. You say there, That the commons do conceive they need not prove to your lordships, that as to any other person besides king James, the throne is also vacant: doth not this shew, that the meaning of the vacancy is a vacancy throughout, as well as with respect to king James? I ask your pardon if I do not declare my own opinion about the vacancy as to him; but all that I mention this for, is to know your meaning in this point, how far the vacancy is to extend. You said before, That he had abdicated the government, and thereby the throne was vacant. How is it vacant? Is it only as to king James, or is it as to him and all or any of his posterity, or any of those that are in the remainder in the royal line in succession? If it be as to them too, then it must necessarily follow, that the kingdom must thereby become elective still, or the go-

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vernment be changed into a Commonwealth; neither of which, we hope, the commons intend by it. And therefore that made me ask before, what a grave and learned gentleman meant, when he said it should not be perpetually elective.

Mr. Serj. *Maynard.* I am sure, if we be left without a government, as we find we are, (why else have we desired the Prince to take upon him the administration?) sure we must not be perpetually under anarchy: the word 'elective' is none of the Commons word; neither is the making the kingdom elective the thing they had in their thoughts or intentions: all they mean by this matter, is to provide a Supply for this defect in the government brought upon it by the late king's male-administration. And I do say again, this provision must be made; and if it be, that would not make the kingdom perpetually elective. I stand not upon any word, but am for the thing, that a provision be made to supply the defect.

Mr. *Pollexfen.* Do your lordships agree, that the Throne is vacant as to king James II.? If so, or if you will say it is full of any body else, and will name whom it is full of, it will then be time for the commons to tell what to say to it. If your lordships will please to shew that, we will go on to give it an Answer.

The Earl of *Clarendon.* Your own words in your second Reason are, That you need not prove to us, that as to any other person the throne is also vacant: then how should we name who it is full of? Admit for discourse sake, but we do not grant it, for my part I do not; I say, taking it to be vacant as to king James 2, then you ask us, who it should be supplied by? Must it not be supplied by those that should have come if he were dead?—For, I pray consider, I take this government by all our laws to be an hereditary monarchy, and is to go in succession by inheritance, in the royal line; if then you say this government is vacant, that would be be to put all those by that should take the succession, and that will make the kingdom elective for that time. You say, the throne is vacant; then I may very well ask, who hath the right of filling up that vacancy? We say, there is no vacancy; if there is, pray is there any body that hath the right of filling it up?

Mr. Serj. *Maynard.* That is not the question before us, yet that will come properly in debate when we are agreed upon the Vacancy. —The noble lord says, It is by our law an hereditary monarchy. I grant it; but though it should in an ordinary way to descend to the heir, yet as our case is, we have a maxim in law, as certain as any other, which stops the course; for no man can pretend to be king James's heir while he is living: 'Nemo est heres viventis.'

The Earl of *Pembroke.* To that point I think my lord Clarendon gave an answer, That it should go to the next in the line that were to take it, if the king were dead? For as we should be understood, we should make it a case of demise of our kings, as our law calls it; that is, the king is dead in law by this Abdication or Desertion of the government, and that the next heir is to take by descent.—You, gentlemen, ask us who the throne is full of? I think it is sufficient to know that there are heirs who are to take the lineal succession, though we do not, or cannot positively name the particular person; and therefore we may well conclude there is no vacancy.—Suppose I should be told, such a gentleman is in such a room, and there I find him and another man with him; and I come out and tell you so, and ask which is he; you may be doubtful which of the two is the man, but sure the one of them is he: but because you cannot tell which it is, shall I conclude no such one is there? If there be a doubtful title (that is, dubious in whom the title resides, but a certain title as to some one) and I cannot directly name him that hath the immediate right, yet it is sufficient to prevent thh vacancy, that there is an heir or successor, let him be whom he will.

Mr. Serj. *Maynard.* But your lordship will neither agree it is vacant, nor tell us how it is full. King James is gone, we hear or know of no other; what shall the nation do in this uncertainty? When will you tell us who is king, if king James be not? Shall we everlastingly be in this doubtful condition?

The Earl of *Pembroke.* Sure, Mr. Serj. Maynard, you will agree there is one, and no more than one, to whom a right does belong of succeeding, upon failure of king Jams. Has he no heir known?

Mr. Serj. *Maynard.* I say, no man can be his heir while he lives. If he has any, it is in nubibus, our law knows none; and what shall we do till he be dead? It cannot descend till then.

The Earl of *Pembroke.* You agree, that notwithstanding king Charles II. was abroad at his father's death, and did not actually exercise the government; yet in law, immediately upon his father's decease, he was not the less heir for that; nor was the throne vacant.

Mr. Serj. *Maynard.* That is not like this case, because the descent was legally immediate; but there can be no such thing during king James's life, as an hereditary descent: so that either here must be an everlasting war entailed upon us, his title continuing, and we opposing his return to the exercise of the government; or we have no government for want of a legal descent and succession.—Pray, my lords, consider the condition of the nation till there be a government; no law can be executed, no debts can be compelled to be paid, no offences can be punished, no one can tell what to do to obtain his right, or defend himself from wrong.—You still say, the throne is not void, and yet you will not tell us who fills it. If once you will agree, that the throne is vacant, it will then come orderly in debate, how it should, according to our law, be filled.

The Earl of *Nottingham.* The objection

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(as I take it) that is made to these Reasons the lords have given for their insisting upon the amendments is, That we have not fully answered in them the Reasons given by the commons for their not agreeing to those Amendments.

Mr. *Sacheverel.* My lords, we say you have not fully answered the first of our Reasons.

The Earl of *Nottingham.* Gentlemen, I intend to state the objection so: That first Reason of yours I take to be this in effect, that our word 'deserted' being applied to the government, implies our agreeing that the king hath deserted the throne, those two being in true construction the same; and then, by our own confession, the throne is vacant as to him.—To this you say, my lords have given no answer: truly, I think it is a clear answer, that the word 'deserted' may have another sense, and doth not necessarily imply renouncing entirely of a right, but a ceasing of the exercise. But then, if that does not vacate the throne as to him, the other Reason comes to be considered, how came you to desire the Prince of Orange to take the administration upon him, and to take care of Ireland till the Convention, and to write his Letters circularly for this meeting? And to renew your Address to the Prince, and to appoint a Day of public Thanksgiving?—In answer to that, my lords say, that though the king's deserting the government (as they agree he has done) did imply the throne to be vacant, yet they might justly do all those acts mentioned in the commons Reasons; because, if barely the exercise of the government were 'deserted,' there must be a supply of that exercise in some persons taking the administration; and as none so fit, because of the Prince's relation to the crown (and his presence here) to address unto about it, so none so proper to make that Address as the lords: for in the absence of the king, they are the king and kingdom's Great Council, and might have done it by themselves without the commons; but being met in a full representative body, they joined with them.—Mr. Pollexfen indeed has said, There is no distinction in law between the kingship and the exercise of it: and, That it is the same crime, in consideration of law, to take away the exercise, as to take away the kingship.—I shall not dispute with that learned gentleman (whom I very much honour for his knowledge in the profession of the law) what offence either of them would be now; for we are not discoursing concerning a Regency, how the government should be administred, but we are barely upon the question, whether the throne be vacant, so that we may have another king? But if we should grant a vacancy, as to the king himself, we are then told, the next in succession cannot take, because no one can be heir to one that is alive. Yet, I think, the answer given by my lords before is a very good one, That though the king be not dead naturally, yet if (as they infer) he is so civilly, the next of course ought to come in as by hereditary succession; for I know not any distinction between successors in the case of a natural death, and those in the case of a civil one.—For I would know if the next heir should be set aside in this case, and you put in another, whether that king shall be king of England to him and his heirs, and so being once upon the throne, the ancient lineal succession be altered? If that be so, then indeed it is sufficiently an elective kingdom, by taking from it the right heir.—If it be not so, then I would ask, whether such king as shall be put in, shall be king only during king James's life; that, I suppose, for many reasons is not your meaning; but, at least he must be made king during his own life; and then if there be a distinction made as to the succession between a natural and a civil death, if king James should die during the life of the new king, what would become of the hereditary monarchy? Where must the succession come in, when the next heir to king James may not be next heir to the present successor?—Therefore we must reduce all to this point, which my lords have hinted at in their Reasons, whether this will not make the kingdom elective? For if you do once make it elective, I do not say that you are always bound to go to election, but it is enough to make it so, if by that precedent there be a breach in the hereditary succession; for I will be bold to say, you cannot make a stronger tie to observe that kind of succession, than what lieth upon you to preserve it in this case.—If you are under an obligation to it, it is part of the constitution. I desire any one to tell me what stronger obligation there can be? and that, I say, is reason enough for my lords to disagree to it, it bringing in the danger of a breach upon the constitution.—Next, gentlemen, I would know of you, if the throne be vacant, whether we be obliged to fill it? If we be, we must fill it either by our old laws, or by the humour of those that are to chuse; if we fill it by our own old laws, they declare, that it is an hereditary kingdom, and we are to take the next to whom the succession would belong, and then there would be no need of standing upon a vacancy.—If we are to fill it according to the humour of the times, and of those that are to make the choice, that diverts the course of inheritance, and puts it into another line: and I cannot see by what authority we can do that, or change our ancient constitution, without committing the same fault we have laid upon the king.—These are the Objections against the Vacancy of the Throne, which occur to me; and we, gentlemen, desire a satisfaction to them before we agree to the Vacancy.—And, I think, the answering them will lead us unto that which I take to be the main point in question, whether the Vacancy of the Throne, and filling it again, will not, as my lords say, endanger the turning this hereditary monarchy of ours into an elective one?

Mr. *Sacheverel.* My lords, it seems very strange to us, that this question should be asked us, when we come to shew, that your lordships Reasons for leaving out this part of our Vote

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are not satisfactory, neither do answer the Reasons we gave for our not agreeing to your lordships Amendments: and it is much stranger that we should be asked, whether this Vacancy extends to the heirs, when you will not tell us, whether it be vacant as to king James himself.—You put it upon us to say, the execution or exercise of the government is ceased; but you will not say the throne is vacant, so much as to him: and if it be not, what have we to do, to consider, or debate, of any consequence, whether it will infer an election or not?—We desire of your lordships that which we think is very proper; first, to know whether the throne be vacant at all? If it be, then our proposition in the conclusion of our vote is true, 'That the Throne is thereby vacant.'—My lords, I think we come here very much in vain till this point be settled; what satisfaction can it be to your lordships, or us, or the nation, to know that such things as are mentioned in the Votes had been done by king James, and that he has deserted (as you say) the government, if he still retain a right to it; and your lordships will not declare he hath no right, but amuse the kingdom with the doubtful words of the exercise (as to him) ceasing. If that be all you mean, what need the question be asked, how far it is vacant, for it should seem it is not vacant at all.

The Earl of *Nottingham*. Will you please to suppose it vacant as to king James, that is, that he hath no Right? Then let us go on to the next step.

Mr. *Sacheverel*. That, my lords, we cannot do, for all our business is to maintain our own, 'that the Throne is vacant.'

Mr. *Somers*. My lords, your lordships, as a Reason against the word 'abdicate,' say it is not a word known in our common law. But the word 'vacant,' about which we are now disputing, cannot have that objection made to it; for we find it in our Records, and even applied in a parallel case to this of ours, in 1 Hen. 4 where it is expressly made use of more than once, and there it doth import what I think it doth import in this Vote of the house of commons, now in debate; and to require any farther or other explication of it than the Record gives, will be very hard and unreasonable; for we are here to give the commons Reasons for maintaining their own Vote, and nothing else.—If your lordships please to look into the Record in that case, there was first a Resignation of the crown and government made and subscribed by king Rd. 2,* and this is brought into the parliament, and there they take notice, that the 'Sedes Regalis' (those are the words) 'fuit vacua;' and the Resignation being read both in Latin and English, in the great hall at Westminster, where the parliament was then assembled, it was accepted by the lords and commons.—After that, it proceeds farther; and there are Articles exhibited against Rd. 2, and upon these Articles they went on to Sentence of Depostion and Deprivation, and then follow the words in the record; 'Et confessim ut constabat ex præmissis & eorum occasione regnum Angliæ cum pertinentiis suis vacare.' Then Henry 4 riseth up out of his place as duke of Lancaster, where he sat before, and standing so high that he might be well enough seen, makes this claim to the crown: the words in the Record are, 'Dictum regnum Angliæ sicut præmittitur vacans una cum corona vendicat.'—After that, the Record goeth on, That upon this Claim the lords and commons being asked, what they thought of it? they unanimously consented, and the archbishop took him by the hand, and led him 'ad sedem regalem prædictam,' &c—Nay, after all this, it is there taken notice of, and particularly observed, that 'prius vacante sede regali,' by the lesion and deposition aforesaid, all the public officers ceased; there is care taken for Henry 4's taking the Royal Oath, and granting of new commissions.—My lords; the commons do therefore apprehend, that with very good reason and authority they did in their Vote declare the throne to be vacant. But as to the going farther to enquire into the consequences of that, or what is to be done afterwards, is not our commission, who came here only to maintain their expressions in their Vote against your lordships amendments.

The Earl of *Rochester*. In a free Conference the points in question are freely and fully to be debated; and my lords, in order to their Agreement with the commons, are to be satisfied what is meant, and how far it may extend. You gentlemen, that are managers for the house of commons, it seems, come with a limited commission, and will not enter into that consideration which (as our Reasons express) hath a great weight with my lords, whether this Vote of the commons will not make the monarchy of England, which has always heretofore been hereditary, to become elective? That the Vacancy of the Throne will infer such a consequence, to me appears very plain: and I take it from the argument that last gentleman used for the word 'vacant,' out of the record of Rd. 2's time, that is cited for a precedent for that word. But as that is the only precedent, yet it is attended with this very consequence; for it being there declared, that the royal seat was vacant, immediately did follow an election of Henry 4th, who was not next in the right line; did not then this hereditary monarchy in this instance become elective? When king Charles 2 died, I would fain know, whether in our law the throne was 'vacant?' No sure, the next heir was immediately in the throne. And so it is in all hereditary successive governments.—Indeed, in Poland when the king dies there is a vacancy, because there the law knows no certain successor: so that the difference is plain, that wherever the monarchy is hereditary, upon the ceasing of him in possession, the throne is not vacant; where it is elective, it is vacant.

The Earl of *Clarendon*. I would speak one

* See vol. i. p. 251.

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word to that Record which Mr. Somers mentioned, and which the lord that spoke last hath given a plain answer unto, by making that difference (which is the great hinge of the matter in debate) between hereditary and elective kingdoms. But I have something else to say to that Record. First, It is plain in that case king Rd. 2 had absolutely resigned, renounced, or (call it what you please) 'abdicated' in writing under his own hand. What is done then? After that, the parliament being then sitting, they did not think it sufficient to go upon, because that Writing might be the effect of fear, and so, not voluntary; thereupon they proceed to a formal deposition upon Articles, and then comes in the claim of Hen. 4. After all this, was not this an election? He indeed saith, that he was the next heir, and claimed it by descent from Henry 3; yet he that was really the next heir did not appear, which was the earl of March; so that Henry 4 claimed it as his indubitable right, being the next heir that then appeared.—But, gentlemen, I pray consider what followed upon it; all the kings that were thus taken in (we say elected, but the election was not of God's approbation) scarce passed any one year in any of their reigns, without being disturbed in the possession.—Yet, I say, he himself did not care to owe the crown to the election, but claimed it as his right. And it was a plausible pretence, and kept him and his son (though not without interruption) upon the throne. But in the time of his grandson Henry 6 there was an utter overthrow of all his title and possession too: for if you look into the Parliament Roll. 1 Edward 4, the proceedings against king Rd. 2, as well as the rest of the acts during the Usurpation (as that Record rightly calls it) are annulled, repealed, revoked, reversed, and all the words imaginable used and put in, to set those proceedings aside as illegal, unjust and unrighteous. And, pray what was the reason? That Act deduceth down the pedigree of the royal line, from Henry 3 to Rd. 2, who died without issue, and then Henry 4, (saith the Act) usurped; but that the earl of March, upon the death of Rd. 2, and consequently Edward 4 from him, was undoubted king by conscience, by nature, by custom, and by law. The Record is to be seen at length, as well as that 1 Hen. 4; and being a latter act, is of more authority.—And after all this, (I pray consider it well) the right Line is restored, and the Usurpation condemned and repealed. Besides, gentlemen, I hope you will take into your consideration, what will become of the kingdom of Scotland if they should differ from us in this point, and go another way to work; then will that be a divided kingdom from ours again. You cannot but remember how much trouble it always gave our ancestors, while it continued a divided kingdom; and if we should go out of the Line, and invert the Succession in any point at all, I fear you will find a disagreement there, and then very dangerous consequences may ensue.

Sir *Robert Howard.* My lords; the proceeding and expressions of the house of commons in this Vote are fully warranted by the precedent that hath been cited, and are such as wherein there has been no interruption of the government according to the constitution.—The late king hath by your lordships concession, done all those things, which amount to an 'abdication' of the government, and the throne's being thereby 'vacant': and had your lordships concurred with us, the kingdom had long ere this been settled, and every body had peaceably followed their own business. Nay, had your lordships been pleased to express yourselves clearly, and not had a mind to speak ambiguously of it, we had saved all this trouble and been at an end of disputing.—Truly, my lords, this Record that hath been mentioned of Henry 4 I will not say is not a precedent of election, for the archbishop stood up and looked round on all sides, and asked the lords and commons, whether they would have him to be king; and they asserted, (as the words of the Roll are) that he should reign over them. And so it is done at every coronation.—As to his Claim, they did not so much mind that, for they knew that he claimed by descent and inheritance, when there was a known person that had a title before him.—For, that which a noble lord spoke of touching the public Acts that have been done since the king left us, I may very well say, we think them legally done; and we do not doubt but that power which brought in another Line then, upon the vacancy of the throne by the lesion of Rd. 2, is still, according to the constitution, residing in the lords and commons, and is legally sufficient to supply the vacancy that now is.—That noble lord indeed said, that your lordships might not only, with the commons, advise the Prince of Orange to take upon him the administration, and join with us in the other things; but that you might have done it of yourselves, as being, in the absence of the king, the great council of the nation.—My lords, I shall not say much to that point, your lordships honours and privileges are great, and your councils very worthy of all reverence and respect.—But I would ask this question of any noble lord that is here, Whether had there been an heir, to whom the crown had quietly descended in the line of succession, and this heir certainly known, your lordships would have assembled without his calling, or would have either administred the government yourselves, or advised the Prince of Orange to have taken it upon him? I doubt you have been (pardon me for saying it) all guilty of high treason, by the laws of England, if a known successor were in possession of the throne, as he must be if the throne were not 'vacant.'—From thence, my lords, your lordships see where the difficulty lies in this matter and whence it ariseth, because you would not agree the throne to be 'vacant,' when we know of none that possess it.—We know some such thing hath been pretended to as an heir male, of which there are different opinions, and in

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the mean time we are without a government; and must we stay till the truth of the matter be found out? What shall we do to preserve our constitution, while we are without a safe or legal Authority to act under the same, according to that constitution; and in a little time it will, perhaps, through the distraction of our constitution, be utterly irremediable?—I do not deny, but that your lordships have very great hardships to conflict with in such a case; but who is the occasion of them?—We all do know the monarchy is hereditary; but how, or what shall we do to find out the successor in the right line?—You think it will be a difficult thing to go upon the examination who is heir; perhaps it will be more difficult to resolve in this case, than it might be in another: For, though heretofore there have been 'abdications' and 'vacancies,' it has been where the king has been of the same Religion of the established worship of the nation; and amongst those that pretended to the succession, the several Claimers have been persons born and bred up in that Religion that was established by law; or it may be there hath been a child in the womb, at the time of the vacancy.—But then, my lords, there would not be much difficulty to examine, who should inherit, or what were fit to be done. I confess, I say, there are difficulties of all sides, or else your lordships sure would have spoke out before now: and if you had been clear in it yourselves, you would have let the commons and the world have known it. But it not being clear, must we always remain thus? Use what words you will, 'fill up, nominate,' or 'elect,' it is the thing we are to take care of, and it is high time it were done.—My lords, there is no such consequence to be drawn from this vote, as an intention or a likelihood of altering the course of the government, so as to make it elective; the throne hath all along descended, in an hereditary succession; the main constitution hath been preserved. The precedent of Henry iv. is not like that of elections in other countries; and I am sorry there should be any occasion for what is necessary to be done now.—But when such difficulties are upon the nation, that we cannot extricate ourselves out of, by fixing who is the lineal successor, your lordships, I hope, will give us leave to remember 'salus populi est suprema lex.'—And if neither you nor we can do any thing in this case, then we, who are met under the notion of an assembly or convention of the states, have met to no purpose; for after we have voted ourselves to be without a government, (which looks as if something were really intended as to a Settlement) all presently sinks, and we are as much in the dark as we were before.—And, my lords, I pray give me leave to say one thing more: your lordships say, you will never make a precedent of Election, or take upon you to alter the Succession.—With your lordships favour, the settlement of the constitution is the main thing we are to look after. If you provide for the supply of the defect there, that point of the Succession will, without all question, in the same method, and at the same time, be surely provided for.—But, my lords, you will do well to consider: have not you yourselves already limited the very Succession, and cut off some that might have a lineal right? Have you not concurred with us in our Vote, That it is inconsistent with our religion and our laws to have a Papist to reign over us? Must we not come then to an election, if the next heir be a Papist? Nay, suppose there were no Protestant heir at all to be found, would not your lordships then break the line?—But your lordships Vote is inconsistent; you do suppose a case of the greatest consequence that can be, may happen; and if that should happen to be our case, that the whole Protestant line should fail, would not that necessitate an election, or else we must submit to that which were inconsistent with our Religion and our Laws?—If your lordships then, in such a case, must break through the Succession, I think the nation has reason to expect you should take care to supply the present defect, where the Succession is uncertain.—My lords, if this should not be agreed unto, what will be the consequence? We that used, and justly, to boast of living under the best of governments, must be left without any one; for, your lordships, it seems, cannot agree with us to supply and fill up this gap in it, or tell us who is the Successor: and we must not do it ourselves by election; which is the only way left us to provide for our settlement.—Truly, my lords, upon the whole, I cannot tell what condition we shall be in, or what we can do farther; but we must even part, and break up in confusion, and so leave the nation to extricate itself, as well as it can, out of this distraction. But then, at whose door that will lie, I must leave to your lordships own thoughts.

The Earl of *Pembroke*. We have indeed passed such a Vote, as that gentlemen says, against a Popish prince's reigning over us; but I should think that amounts to no more than a resolution, that by a law to be made we will take care of it in parliament: therefore I think that which we aim at, and that which the constitution of our government does require, is, to put things in a legal method: and, in order to it, I would have the legal Successor declared and proclaimed, and then a parliament summoned in that prince's name; and the whole matter settled there.—An act made by a king de facto, is void as to a king de jure; therefore I would have the constitution preserved, and would desire, that all that is done in this matter may be again done in parliament.

The Earl of *Clarendon*. Sir Robert Howard was pleased to say, That by the same method that the throne now should be filled, by the same the successor should be declared, and the right line settled.' Is not that declaring the crown to be elective? Suppose you say nothing but fill the throne, is it not to take away the right line of inheritance? And will not such a

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Successor claim it for his posterity? Truly, I think, if the right line be declared in the same way that the Successor is, then we take upon us to dispose of the inheritance of the crown absolutely; which, I think, by all the law I ever read or could hear of among us, is out of our power; and, that neither house, nor both houses together, have power to do any thing relating to the Succession, but by act of parliament; which the two houses by themselves cannot make.

Sir *R. Temple.* I think we are now going too far in this matter; the question before us is only, Whether there be a vacancy in the throne? After we have done with that, I do not see how this will preclude the consideration of any claim to the succesion.—Your lordships say, You are under great difficulties upon this subject. But, my lords, till you have declared the throne vacant, I must presume to say, I do not see how it is possible for any of us to make one step towards a Settlement.—If there be any claims to the crown, that consideration will be next, and how to determine them: I conceive we are in the same capacity as our predecessors were, to provide for all exigencies as shall emerge, and for the supplying all defects in the government.—It is true, by the acts of queen Elizabeth and king James i. we have the Oaths of Supremacy and Allegiance that are to be, and have been taken by all persons.—But, my lords, there is an old Oath of Fidelity, that useth to be required in Leets, and that by the ancient law of England every man ought to take who is sixteen years of age; and this was as much obliging to the king, his heirs and successors, as any of those later Oaths are; for they seem only to be made to exclude foreign authorities, and not to infer any new obedience or subjection: therefore I am only saying, we are in as natural a capacity as any of our predecessors were, to provide for a remedy in such exigencies as this.—I do not intend to trouble your lordships any farther than the words of the Vote lead me. If the throne were full, what do we here; nay, how came we hither? I would fain know, Whether all that is mentioned in one of our reasons of the Administration being committed to the prince, and those other acts, do not all imply, at least, that we are in such a case as wherein the Throne is vacant? otherwise, if it had been full, I appeal to any one, Whether we could have assembled or acted in any other name, or by any other authority, than his that filled it? Then do not all these things declare, that there is a vacancy?—My lords, I have done, having said this, that it is a subsequent consideration, how the throne shall be filled, and all the particulars that relate to it remain entire, after this resolution taken.—But, I think, we are at present to go no farther. No man, I hope, thinks there is a just ground for any apprehension of an intention to change the government; I am sure there is no ground for any such apprehension: so that we have all the reason in the world to insist, that your lordships should agree with us, that the throne is vacant, or we shall not be able to move one step farther towards a settlement.

Sir *Thomas Lee.* My lords; so much has been said in this matter already, that very little is to be added. But give me leave to say unto your lordships, That those amendments your lordships have made to the commons Vote are not agreeing with your other Votes, nor any of the acts done since the Abdication. Had it been in the common, ordinary case of a vacancy by the king's death, your lordships in December last would sure have let us known as much: but it is plain you were sensible we were without a government, by your desiring the prince to take the administration, and to issue out his letters for this convention.—But, my lords, I would ask this question, Whether upon the Original Contract there were not a power preserved in the nation, to provide for itself in such exigencies?—That contract was to settle the constitution as to the legislature, which a noble lord in the beginning spoke of; so we take it to be: and it is true, that it is a part of the contract, the making of laws, and that those laws should oblige all sides when made; but yet so as not to exclude this original constitution in all governments that commence by compact, that there should be a power in the states to make provision in all times, and upon all occasions, for extraordinary cases and necessities, such as ours now is.—I say nothing now as to the hereditary succession; our government has been always taken to be hereditary, and so declared when there has been occasion to make provision otherwise than in the direct line.—But our matter is singly upon a point of fact, Whether the throne be vacant (as the commons say it is) by the Abdication of king James ii.—The present vacancy is nearest that of Richard ii. of any that we meet with in our records; and the phrase being there used, we insist upon it as very proper. And when that is agreed unto, the house will, no doubt, declare their minds in another consequential question that shall arise in a proper way. But this is all we can speak to now.

Sir *George Treby.* To discourse, whether the crown of England would by this means become elective, is altogether unnecessary; and, I think, your lordships have given no reasons that are sufficient to make the objection out, neither any answers to the commons reasons for their vote. It seems to me an odd way of reasoning, first to mistake the meaning, and then give reasons against that mistaken meaning. The question is only here, Whether we can make good this Proposition, 'That the throne is vacant by the Abdication of the late king?'—I confess, it is a melancholy thing to discourse of the miscarriages of governments, but it is much more afflictive to talk of unhinging all the monarchy, by a breach upon the direct line of the Succession; as, if the crown of England did actually descend to

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Lewis the fourteenth, it would not be in the power of the states of this kingdom to devolve it upon another head.—A noble lord put an instance of two men in one room, one of whom was really such a one: but though a stander-by could not directly tell which was he, yet it could not be said by him, that such a one was not there. But, if you please, I will put this case:—Suppose there were two men in one room, that no one alive could tell which was which; as suppose this to be the case of the two children of Edward 2, that they had been kept close prisoners by their uncle Richard 3, so long, that there were no living witnesses able to tell which was the eldest of the two, that would occasion a difficulty much as intricate as ours here. One of them must be eldest, but by reason of the uncertainty, must not an election be made of them? And could any thing else do but an election? But, I say, the proper single question here is, Whether we have well affirmed upon the premises that are mentioned in the former part of the vote, that he has abdicated, and that the throne is thereby vacant.—Your lordships in part agree; for you say, 'he has deserted the government;' then you say, 'he is not in it.' And it is as much as to say, he has left the kingdom destitute of a government?—Now if there be any sense in which our proposition is true, will you deny the whole proposition, because it may be taken in a sense that is dubious and uncertain, as to the consequences? You cannot say the throne is full: if then there be a doubt with you, to be sure it is not like to be evident to us, especially in this case, considering who your lordships are. You are the persons that usually are, or ought to be present at the delivery of our queens, and the proper witnesses to the birth of our princes. If then your lordships had known who was on the throne, we should certainly have heard his name from you, and that had been the best reason against the vacancy that could have been given.—My lords, we say no more than our ancestors have said before us, as you see by the Parliament-Roll, 1 Hen. 4, and I must maintain the record to this purpose, that the government is vacant, and it is there declared, as it is expressed in our vote: so that we have not invented or coined a word for our turn, neither is the notion new, it is a word that has been used before in a case as near this as any can be. But it is objected, That that should be no precedent, because of what followed upon that vacancy of the throne. I desire that your lordships would read the Record.—The next thing there, is, Hen. 4 cometh himself, and says, he claimed the crown as descended from Hen. 3, and the lords and commons assented. It is true, the archbishop did propose him (as was usual at coronations) and he did there actually ask them, 'Whether they did chuse him for their king?' They agreed to it, and the archbishop makes a discourse upon the virtues of a man to govern the nation better than a child; and then he is placed on the throne. And this I take to be a proper, plain, applicable precedent in our case.—But that noble lord's objection strikes at the very heart of it, if the objection be rightly made, that all these proceedings, and so consequently the words and phrases there used, are all repealed, 1 Edw. 4. My lords, it is very well known, and readily agreed by us, that Edw. 4 came in, in disaffirmance of the title of the house of Lancaster.—As those times went, whenever there was any turn in government, (as there were several) there were new and contrary declarations about the title to the crown made constantly in parliament; and what one parliament had settled, another undid. But then this advantage we have on our side, that as we have this first precedent for us, so we have the last; for I need go no farther, than the Parliament-roll of 1 Hen. 7 12. 16. where the Record is set right again.—The act for deposing Richard 2 is indeed by 1 Edw. 4 repealed, and saith, that Henry 4 usurped the crown, and murdered Richard 2; and thereupon it proceeds to attaint Henry 6. But then comes in Henry 7; and 1 Henry 7 there is an act made, that sets aside all the acts and attainders made against his line, and consequently repealed 1 Edw. 4 which repealed 1 Hen. 4.—And I would observe one thing, by the way, concerning Henry 7. He was of the line of Lancaster, and when he came to the crown, would not endure to have his crown reckoned only matrimonial, or suffer the stile to go in the names of Henry and Elizabeth, as he must have done if he had stuck to the title of the right line of succession; no, he always stood up for his own title, though he had the heiress of the house of York in his bosom.—Therefore, my lords, his act for restoring the Record of 1 Henry 4 again, is as good an authority as it was before, and somewhat better; for it hath the last act on its side, which is unrepealed to this day. Henry 7 had a good right and title by marriage to the crown, 'in re uxoris.' No one can question but his own title, as descended from Henry 4 was an usurpation; and he would not suffer any one to prescribe which title was best, as long as it was acknowledged he had one good one.—That this kingdom is hereditary, we are not to prove by precedent in the list of our kings and queens; for we shall scarce find above three in any direct line, without some interruption: and therefore we are not to fetch our precedents or proofs, so far as those days. And this I speak for the reason which was hinted before.—The laws made are certainly part of the Original Contract; and by the laws made, which establish the oath of allegiance and supremacy, we are tied up to keep in the hereditary line, being sworn to be true and faithful to the king, his heirs and successors; whereas the old oath was, only to bear true allegiance to the king. There (I take it) lies the reason why we cannot (of ourselves) without breaking that contract, break the succession, which is settled by law, and cannot be

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altered but by another, which we ourselves cannot make.

Sir *George Treby*. Your lordship is pleased to say, Hen. 7's title by descent was an usurpation. I think it is pretty hard to determine what title he did govern by, since, though his wife was the lineal heir, yet she had no part, or so much as a name in the administration. And if it were too great an issue to be tried then, it will be harder to do it now. And it has been said, it was his mother's council to him, not to declare particularly upon what foot his title stood.—But, my lords, if we should allow none for acts of parliament but those that were made in the reigns of hereditary kings, and in the right line, I doubt we should want the greatest part of those laws that compose the volume of Statute Books, and the Records by which we enjoy a great part of our inheritances and possessions.

Mr. Serj. *Maynard*. If we look but into the law of nature (that is above all human laws) we have enough to justify us in what we are now a doing, to provide for ourselves and the public weal in such an exigency as this.

Sir *Rd. Temple*. If laws made about the succession be so obliging, what then shall we say to the succession of queen Elizabeth, who had an act of parliament (to the keeping of which an oath was required) against both her and her sister.

The Earl of *Pembroke*. But to shew what opinion she herself and the wise men of her times had, and were of, in this point, there is an act made in her reign, and yet in being, which declares it to be a præmunire to affirm, the parliament cannot settle the succession of the crown, or alter it. Entails in parliament have been of the crown, both ancient and modern, yet the authority of another subsequent act has prevailed against such an entail: so that it should be done, I say, in parliament.

Sir *Rd. Temple*. I think we are in as full a capacity to take care of the government as any of our predecessors, in such an exigence; and if we do as they have done before us, that is not to be called a changing of the monarchy from an hereditary to an elective.

The Earl of *Nottingham*. After this long debate, pray let us endeavour to come as near as we can to an agreement: we have proposed some questions about which my lords desired to be satisfied: you, gentlemen, have not been pleased to give an answer to them, and we have no great hopes of getting one from you, as this debate seems to be managed.—On your part you have declared, that you do acknowledge the monarchy is hereditary and successive in the right line; then I cannot see how such an acknowledgment consists with the reasons you give for your vacancy; for I cannot imagine how a kingdom can be an hereditary kingdom, and that king who hath children now in being (at the time of his forsaking the government) can have the throne vacant both of him and his children.—The course of inheritance, as to the crown of England, is, by our law, a great deal better provided for, and runs stronger in the right line of birth than of any other inheritance. No attainder of the heir of the crown will bar the succession to the throne, as it doth the descent to any common person. The very descent, by order of birth, will take away any such defect.—And so was the opinion of the great lawyers of England, in the case of Hen. 7th. Then cannot I apprehend how any act of the father's can bar the right of the child; (I do not mean that an act of parliament cannot do it) I never said so, nor thought so; but, I say, no act of the father's alone can do it, since even the act of the son, which may endanger an attainder in him, cannot do it, so careful is the law of the royal line of succession. This is declared by many acts of parliament, and very fully and particularly by that statute 25th Henry 8. cap. 22. entitled, 'An Act concerning the King's Succession;' where the succession of the crown is limited to the king's issue male first, then female, and the heirs of their bodies one after another, by course of inheritance, according to their ages, as the crown of England hath been accustomed and ought to go in such cases.—If then the king hath done any thing to divest himself of his own right, it doth not follow thence, that that shall exclude the right of his issue; and then the throne is not vacant, as long as there are any such issue; for no act of the father can vacate for himself and children. Therefore if you mean no more than only the divesting his own right, I desire you would declare so: and then suppose the right gone as to him, yet if it descend to his lineal successor, it is not vacant. And I told you, one reason my lords did stand upon, against agreeing to the vacancy, was, because they thought your vote might extend a great deal farther than the king's own person.—But your all owning it to be a lineal inheritance, and this vacancy, methinks, do not by any means consist. You declare, you never meant to alter the constitution; then you must preserve the succession in its ancient course: so I did hear a worthy gentleman conclude it to be your intention to do. But by what methods can it be done in this case by us? I desire to be satisfied in a few things about this very matter.—I desire first to know, whether the lords and commons have power by themselves to make a binding act or law? and then I desire to know, whether, according to our ancient legal constitution, every king of England, by being seated on the throne, and possessed of the crown, is not thereby king, to him and his heirs? And without an act of parliament, (which we alone cannot make) I know not what determination we can make of his estate.—It has been urged, indeed, that we have in effect already agreed to what is contained in this vote, by voting, that it is inconsistent with our religion and laws, to have a Popish prince to rule over us. But I would fain know, whether they that urge this, think that the crown of Spain is legally and actually

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excluded from the succession by this vote? No man sure will undertake to tell me, that a vote of either house, or both houses together, can alter the law in this or any other point. But because I am very desirous that this vote should have its effect, I desire that every thing of this nature should be done in the ancient usual method, by act of parliament.—God forbid that since we are happily delivered from the fears of Popery and arbitrary power, we should assume any such power to ourselves; what advantage should we then give to those, who would quarrel with our settlement for the illegality of it? Would not this, which we thus endeavour to crush, break forth into a viper? —For the Record of 1 Henry 4. I acknowledge the words of the royal seat being vacant are used. But since you yourselves tell us of it, that Henry the 4th did claim by inheritance from his grandfather, that methinks may come up to what I would have the declared sense of both houses upon this question; (to wit) the throne might be vacant of Richard the Second, but not so vacant but the claim of the immediate successor was to take place, and not be excluded, but entirely preserved.—And Richard 2. seems to have had the same opinion, by delivering over his signet to them. Our laws know no inter-regnum; but upon the death of the predecessor the next heir is king 'in uno & eodem instante.'—It was so resolved even in Richard the 2nd's own case; for at his grandfather's death it was a question, whether king Richard 2. or the eldest son of his grandfather then living, should succeed; and it was resolved, that he ought to have it, because of his right of inheritance: which is the more remarkable, because of the contest.—And when Richard 3. usurped his crown, to make his claim good to the right of inheritance, he bastardized his own nephews.—And so it was in all the instances of the breaches that were made upon the line of succession, which were some seven (but all illegal) for such was the force of the laws, that the usurpers would not take the crown upon them, unless they had some specious pretence of an hereditary title to it. That which I would have avoided by all means, is, the mischievous consequences that I fear will ensue upon this vacancy of the throne, (to wit) the utter overthrow of the whole constitution of our government. For if it be so, and the lords and commons only remain as part of it, will not this make the king one of the three estates? Then is he the head of the commonwealth, all united in one body under him. And if the head be taken away, and the throne vacant, by what laws or constitution is it that we retain lords and commons? For they are knit together in their common head; and if one part of the government be dissolved, I see not any reason but all must be dissolved.—Therefore it is of very great importance that we come to an explanation, how far you mean the throne to be vacant; and that if it reach to the king and his heirs, (notwithstanding all the acts of parliament about the succession) we may consider how the consequences of that will affect the constitution; for I presume to say, it may then be in your power as well to say we shall have no king at all.—I was mistaken by the gentleman who took notice of what I said the lords might do of themselves, in the absence of the king: I would not be understood to say, the government would be devolved upon the lords; but I may say they are the government's great council in the interval of parliaments, and may have greater sway by the privilege of their birth, in the exigencies of the state: as appears in several instances, and particularly the first of Henry 6. and during his infancy.—There was a case put by one gentleman, about the two sons of Edward 4. being kept prisoners so long, till it could not be known by any living witnesses which was the eldest: I would only ask that gentleman, whether in that case he would say the Throne were vacant; certainly there would have been one in the throne.—But then it followeth, that though there should be an uncertainty of the particular person, yet that would not infer a necessity that the throne should be vacant.—Upon the whole matter, you seem to understand your own words to signify less than they do really import.—I do not find that you purpose to make the kingdom elective; and yet you talk of supplying the vacancy by the lords and commons.—You do not say, that the king has left the crown for himself and his heirs; and yet your words speak of a vacancy, and nothing of the succession: but you do not tell us what you mean.—Therefore if this matter were explained, that my lords may know how far the intention of the Vote reacheth, that it may not abroad, or hereafter, be construed to go beyond such meaning, (that is) as to the king himself, and not to his heirs, perhaps there might quickly be a happier accommodation than can be expected while things remain thus, still in doubt, and in the dark.—Gentlemen, if any of you can settle this matter in its true light, it would do very well; and it is you must do it; for the words are yours, and so we must be told your signification and intention by yourselves. —If you mean by 'Abdication and Vacancy' only that the king has left the government, and it is devolved upon the next successor, that may perhaps satisfy my lords, and we may agree upon some settlement.—I must confess any government is better than none; but I earnestly desire we may enjoy our ancient constitution.—Therefore I again renew my request, that you would come to such an explanation, as may breed an union between the two houses, for the strength of your consultation and resolutions in this great emergency.—If the kingdom were indeed elective, we were in a capacity of electing, but 'pro hac vice,' according to the constitution, this question would be greater than what it was before; but then the great debate in it would only be, who should first have the honour of laying the

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very foundation of the new government.—But as this case stands upon the foot of our ancient laws, and fundamental constitution, I humbly beseech you to consider, whether at the same time that, in this way, you get an established government, you do not overturn all our legal foundations.

Mr. *Paul Foley.* I hope, my lords, there is no danger of shaking our fundamentals in this case; but we are pursuing those methods that agree with our laws and constitution: for though the monarchy of this nation be hereditary in the ordinary course of succession, yet there may fall out a case wherein that cannot be complied with, and a plain vacancy may ensue. For, put the case the whole royal line should fail, (as they are all mortal, as well as we ourselves are) should we in that case have no government at all? And who then should we have but the lords and commons? And I think that case comes nearest to the case in question, where the successor is not known; for if he had been, we should have heard of him before now. And what is the reason that it should then in the former case devolve to lords and commons, but that there is no king? And they being the representative body of the kingdom, are the only remaining apparent parts of the government, and are only to supply the defect by providing a successor. And, is there not the same reason here? We are without a king, I am sure I do not know of any that we have: If that fall out to be the case now, that will infer a vacancy with a witness, and it will be of necessity that the lords and commons take care to supply it.

Mr. *G. Eyre.* My lords, we are led, and I think, out of the way, into a very large field, hunting after the consequences of a vote not yet settled or agreed unto: we have, as I conceive, nothing but the vote itself to consider of, or debate upon: we do not intend to prejudice any legal right: but what the consequences of this vote may be, before the vote itself be passed, I believe no man can reasonably pretend to ascertain, unless we have the spirit of prophecy.—The throne may be vacant as to the possession, without the exclusion of one that has a right to the succession, or a dissolution of the government in the constitution; neither will there be room for the objection of a king 'de facto,' and not 'de jure,' which some of the lords were pleased to express their fears of. —This gentleman that stands by me instanced in a Record, and that was mistaken as a precedent for the proceeding in this case: it was only mentioned by him to shew, that by using the word 'vacant,' the commons did no more than our ancestors did before us; and therefore it was not an unknown word or thing to have the throne 'vacant.' We do apprehend we have made a right and apt conclusion from the premises, for otherwise all the Vote is but historical. We declare the late king hath broke the Original Contract, hath violated the fundamental laws, and hath withdrawn himself out of the kingdom, that he hath abdicated, and actually renounced the government. What occasion was there for such a Declaration as this, if nothing were concluded from it? That were only to give the kingdom a compendious history of those miseries they have too well learnt by feeling them. Therefore there was a necessity to make some conclusion, and none so natural as this; that we are left without a king; in the words of the Vote, that the Throne is thereby vacant, which it may be as to the possession, and yet the Right of Succession no way prejudiced.—But, my lords, we come here by the command of the house of commons, to debate the Reasons of their Vote and your lordships Amendments; not to dispute what will be the Consequences, which is not at present our province.

And so the conference ended, and the members of each house returned to their respective houses.

The Lords agree to the Vote of Vacancy.] Feb. 7. A Message was sent from the lords to the commons by sir Robert Atkins and sir Edw. Nevil, viz.

"Mr. Speaker; the lords have commanded us to tell you, that they have agreed to the Vote sent them up of the 28th of January last, (touching which there was a free conference yesterday) without any Alterations."

THE DECLARATION OF RIGHTS.] Feb. 13. This day, about ten of the clock, Mr. Speaker, attended with the mace, and the house of commons following him in a body, went in their coaches to Whitehall: where the right hon. the marquis of Halifax, Speaker of the house of lords, with the house of lords, being placed on the right side of the door, within the Banquetting-House; and the right hon. Henry Powle, esq. Speaker of the house of commons, with the commons on the left side of the door of the said Banquetting-House; waited the coming of the Prince and Princess of Orange: who, immediately after, entering in at the upper end of the Banquetting-House, came and stood upon the step under the canopy of state: where being placed, the Speakers of both houses, together with the lords and commons that accompanied them, were brought up by the gentleman-usher of the black-rod, making three obeisances, one at the lower end of the room, one in the middle, and one at the step where their Highnesses stood. And then the Speaker of the house of lords acquainted their Highnesses, That both houses had agreed upon a DECLARATION to be presented to their Highnesses; which he desired might be read; which being granted by their Highnesses, the clerk of the house of lords, by order of that house, read the Declaration as followeth:

"Whereas the late king James 2, by the assistance of divers evil Counsellors, Judges and Ministers employed by him, did endeavour to subvert and extirpate the Protestant Religion, and the Laws and Liberties of this kingdom: By assuming and exercising a Power of dispensing with, and suspending of Laws, and the execution

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of Laws, without consent of parliament: By committing and prosecuting divers worthy Prelates, for humbly petitioning to be excused from concurring to the said assumed Power: By issuing and causing to be executed, a Commission under the Great Seal, for erecting a Court called, 'The Court of Commissioners for Ecclesiastical Causes:' By levying Money for and to the use of the crown, by pretence of Prerogative, for other time, and in other manner, than the same was granted by parliament: By raising and keeping a Standing-Army within this kingdom in time of peace, without consent of parliament; and quartering Soldiers contrary to law: by causing divers good subjects, being Protestants, to be disarmed, at the same time when Papists were both armed and employed contrary to law: By violating the Freedom of Election of Members to serve in Parliament: By prosecutions in the Court of King's Bench for matters and causes cognizable only in parliament; and by divers other arbitrary and illegal courses. And whereas of late years, partial, corrupt, and unqualified persons, have been returned and served on Juries in Trials, and particularly divers Juries in Trials for High-Treason, which were not freeholders: and excessive Bail hath been required of persons committed in criminal cases, to elude the benefit of the laws made for the Liberty of the Subjects: and excessive Fines have been imposed; and illegal and cruel Punishments inflicted: and several Grants and Promises made of Fines and Forfeitures, before any Conviction or Judgment against the persons upon whom the same were to be levied: All which are utterly and directly contrary to the known laws and statutes, and freedom of this realm.—And whereas the said late king James 2, having abdicated the Government, and the Throne being thereby vacant, his Highness the Prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from Popery and Arbitrary Power) did (by the Advice of the lords spiritual and temporal, and divers principal persons of the Commons) cause Letters to be written to the lords spiritual and temporal, being Protestants, and other Letters to the several counties, cities, universities, boroughs, and cinque-ports, for the chusing of such persons to represent them, as were of right to be sent to parliament, to meet and sit at Westminster, upon the 22d day of January in this Year 1688, in order to such an Establishment, as that their Religion, Laws and Liberties, might not again be in danger of being subverted: Upon which Letters, Elections having been accordingly made; and thereupon the lords spiritual and temporal, and commons, pursuant to their several Letters and Elections, being now assembled in a full and free Representative of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like case have usually done) for vindicating and asserting their ancient Rights and Liberties, declare; That the pretended Power of suspending of Laws, or the Execution of Laws, by regal authority, without consent of parliament, is illegal: That the pretended Power of dispensing with Laws, or the Execution of Laws, by regal authority, as it hath been assumed and exercised of late, is illegal: That the Commission for erecting the late Court of Commissioners for Ecclesiastical Causes, and all other Commission and Courts of the like nature, are illegal and pernicious: That Levying of Money, for or to the use of the crown, by pretence of Prerogative, without Grant of Parliament, for longer time, or in any other manner than the same is or shall be granted, is illegal: That it is the Right of the Subjects to petition the king, and all Commitments and Prosecutions for such petitioning, are illegal: That the raising or keeping a Standing-Army within the kingdom in time of peace, unless it be with consent of parliament, is against law: That the subjects, which are Protestants, may have Arms for their Defence suitable to their condition, and as allowed by law: That Elections of Members of Parliament ought to be free: That the Freedom of Speech, and Debates, or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament: That Excessive Bail ought not to be required, nor Excessive Fines imposed, nor cruel and unusual Punishments inflicted: That Jurors ought to be duly empannelled and returned, and Jurors, which pass upon men in Trials of High-Treason, ought to be Free-Holders: That all Grants and Promises of Fines and Forfeitures of particular persons, before Conviction, are illegal and void: And that for Redress of all Grievances, and for the amending, strengthening and preserving of the Laws, Parliaments ought to be held frequently. And they do claim, demand and insist upon all and singular the premises, as their undoubted Rights and Liberties; and no Declarations, Judgments, Doings or Proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example. To which Demand of their Rights they are particularly encouraged by the Declaration of his highness the Prince of Orange, as being the only means for obtaining a full Redress and Remedy therein.—Having therefore an entire confidence, that his said highness the Prince of Orange will perfect the Deliverance so far advanced by him, and will still preserve them from the Violation of their Rights, which they have here asserted, and from all other attempts upon their Religion, Rights and Liberties; the said lords spiritual and temporal, and commons, assembled at Westminster, do resolve, That William and Mary, Prince and Princess of Orange, be, and be declared King and Queen of England, France and Ireland, and the Dominions thereunto belonging, to hold the Crown and Royal Dignity of the said Kingdoms

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and Dominions, to them the said Prince and Princess during their lives, and the life of the Survivor of them; and that the sole and full exercise of the Regal Power be only in, and executed by the said Prince of Orange, in the names of the said Prince and Princess during their joint lives; and after their deceases the said Crown and Royal Dignity of the said kingdoms and dominions to be to the heirs of the body of the said Princess; and for default of such issue, to the Princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of the said Prince of Orange.—And the said lords spiritual and temporal, and commons, do pray the said Prince and Princess of Orange, to accept the same accordingly: And that the Oaths hereafter mentioned be taken by all persons of whom the Oaths of Allegiance and Supremacy might be required by law, instead of them; and that the said Oaths of Allegiance and Supremacy be abrogated: "I A. B. do sincerely 'promise and swear, That I will be faithful, 'and bear true allegiance to their majesties, 'king William and queen Mary. So help me 'God.' 'I A. B. do swear, That I do from 'my heart abhor, detest and abjure, as impious 'and heretical, this damnable doctrine and po-'sition, That Princes excommunicated or de-'prived by the Pope, or any authority of the 'See of Rome, may be deposed or murdered by 'their subjects, or any other whatsoever. And 'I do declare, That no foreign prince, person, 'prelate, state or potentate, hath, or ought to 'have, any jurisdiction, power, superiority, 'pre-eminence, or authority, ecclesiastical or 'spiritual, within this realm. So help me 'God."

The Prince's Answer thereto.] After the public reading of this Declaration, the marquis of Halifax, Speaker of the house of lords, made a solemn tender of the Crown to their highnesses, in the name of both houses, the representative of the nation; whereupon the Prince of Orange returned the following Answer:

"My lords and gentlemen; This is certainly the greatest proof of the trust you have in us, that can be given; which is the thing which makes us value it the more; and we thankfully accept what you have offered to us.—And as I had no other intention in coming hither, than to preserve your Religion, Laws and Liberties, so you may be sure, that I shall endeavour to support them, and shall be willing to concur in any thing that shall be for the good of the kingdom; and to do all that is in my power to advance the welfare and glory of the nation."

William and Mary proclaimed King and Queen.] Then the lords and commons there present, about 11 of the clock in the afternoon, came down to Whitehall Gate; where the officers of arms, and other persons, usually concerned in solemnities of that nature, being ready, Garter principal king of arms, having received a Proclamation for proclaiming the Prince and Princess of Orange King and Queen, read the same in the presence of the said lords and commons, and multitudes of the people there assembled. From whence they proceeded in this manner: first, the head-bailiff of Westminster, with his men: next the knight-marshal, and his men: then a class of trumpets, followed by the serjeant-trumpeter: then an officer of arms, singly, followed by six other; each accompanied by a serjeant at arms: then Garter king of arms, with the Proclamation, accompanied by the gentleman-usher of the black rod: then the lord marquis of Halifax, attended by the eldest serjeant at arms and mace, in his coach: then Mr. Speaker of the house of commons, attended by another serjeant at arms, in his coach: then the duke of Norfolk, earl marshal of England, in his coach; and other of the nobility in their coaches: then the members of the house of commons in their coaches. And, in this order, came to Temple-Bar; where the gates being shut, two of the officers of arms, attended by a serjeant at arms, and two trumpets, knocked thereat: and the sheriffs of London and Middlesex, coming to the gate, and inquiring of the occasion; and being informed thereof, ordered the gates to be opened: and the whole proceeding entered, except the bailiff of Westminster and his men, who returned back again from thence: and the lord mayor, recorder, and aldermen of the city of London, with the sheriffs, receiving them in their formalities; a second Proclamation was made, in like manner as before, between the two Temple gates: from whence the lord mayor, being indisposed in his health, going in his coach; and the aldermen, sheriffs, and recorder, riding on horseback before the lords and commons; they proceeded to the middle of Cheapside; and there made a third Proclamation; and from thence to the Royal Exchange, where a fourth Proclamation was made in the like manner; a lane being made all the way between Temple-Bar and the Exchange, by several companies of the Trained-Bands of the city.—The said Proclamation was as followeth:

"Whereas it hath pleased Almighty God in his great mercy to this kingdom, to vouchsafe us a miraculous Deliverance from Popery and Arbitrary Power; and that our preservation is due, next under God, to the resolution and conduct of his highness the Prince of Orange, whom God hath chosen to be the glorious instrument of such an inestimable happiness to us and our posterity: and being highly sensible, and fully persuaded of the great and eminent virtue of her highness the Princess of Orange, whose zeal for the Protestant Religion will, no doubt, bring a blessing along with her upon this nation: And whereas the lords and commons now assembled at Westminster, have made a Declaration, and presented the same to the said Prince and Princess of Orange, and therein desired them to accept the Crown, who have accepted the same accordingly: We therefore the lords spiritual and temporal, and commons, together with the lord-mayor and citizens of

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London, and others of the commons of this realm, do with full consent publish and proclaim, according to the said Declaration, William and Mary, Prince and Princess of Orange, to be King and Queen of England, France and Ireland, with all the dominions and territories thereunto belonging: who are accordingly so to be owned, deemed and taken, by all the people of the aforesaid realms and dominions, who are from henceforth bound to acknowledge and pay unto them all faith and true allegiance; beseeching God, by whom kings reign, to bless King William and Queen Mary, with long and happy years to reign over us."

Settlement of the Court, Council, and Ministry.] King William's first care after his advancement to the throne, was to settle a Privy-Council,* and appoint a Ministry. The earl of Danby, created marquis of Carmarthen, was made president of the council. He had, by his accomplishing the king's marriage with the queen, and heartily concurring in the Revolution from the very beginning, atoned in some measure for his proceedings under Charles 2. He is said to have pushed for the Treasurer's staff, a post he had formerly enjoyed, but was refused by the king, who was resolved the Treasury should be in the hands of commissioners. The Privy Seal was given to lord Halifax, who for zealously promoting all the steps that were lately made for the king, was hated by the Tories, and for his opposition to the Bill of Exclusion, was not beloved by the Whigs. The affair of surrendering up the Charters, and the remissness in relieving of Ireland, were also charged on him. He had for some time great credit with the king, but lord Carmarthen not being able to bear the equality, or rather preference that seemed to be given him, brought on a storm that quickly fell on him. The earl of Devonshire was made lord steward of the houshold, and the earl of Dorset, lord chamberlain. As they were both Whigs, the household was made up of such, except where there were buyers for places, which were set to sale. And though the king seemed to discourage such practices, yet he did not encourage proposals for detecting them. Mr. Bentinck, afterwards earl of Portland, was made groom of the stole and privy purse. He continued for ten years to be entirely trusted by the king, and served him with great fidelity and obsequiousness, but could never bring himself to be acceptable to the English nation. Mr. Sidney, made first lord Sidney, and then earl of Rumney, was made one of the gentlemen of the king's bedchamber, and afterwards secretary of state, lord lieutenant of Ireland, and in other great posts. The king's chief personal favour lay between Bentinck and him. He was brother to the earl of Leicester, and to Algernon Sidney, beheaded by king James. He was the man who had the secret of all the correspondence, that was before the Revolution, between the Prince of Orange and his party in England, and the conduct of that whole affair, was, by the prince's own order, chiefly deposited in his hands. He was a graceful man, and had lived long at court, where he had some adventures that became very public. He was a person of a sweet and caressing temper, had no malice in his heart, but too great a love of pleasure. He had been sent envoy to Holland in the year 1679, where he entered into such particular confidences with the prince, that he had the highest measure of his trust and favour, that any Englishman ever had. Marshal Schomberg was made master of the ordnance, he had been of great service to the king in his expedition into England, and the king had been very earnestly pressed to bring him over with him, both because of the great reputation he was in, and because it was thought to be a security for the king's person, and to the whole design, to have another general with him, to whom all would submit in case of any accident.—The earl of Shrewsbury was declared secretary of state, and had the greatest share of the king's confidence. He had been educated a Papist, but had renounced that religion upon a very critical and anxious inquiry into matters of controversy. Some thought, that though he had forsaken popery, he was too sceptical, and too little fixed in the principles of religion. However, he seemed to be a man of great probity, and to have a high sense of honour. He had no ordinary measure of learning, a correct judgment, with a sweetness of temper, that charmed all who knew him. He had so great a command of himself, that during all the time he continued in the ministry, no person was heard to complain of him, except for his silent and reserved answers, with which his friends were not always well pleased. His modest deportment gave him such an interest in the king, that he never seemed so fond of any of his ministers, as he was of him. His method was only to lay in general the state of affairs before his majesty, without pressing too

* The names of the Privy-Counsellors were as follows; his royal highness George prince of Denmark, William Sancroft, abp. of Canterbury, Henry Compton bishop of London, Henry duke of Norfolk, Charles marquis of Winchester, George marquis of Halifax, Thomas earl of Danby, Robert earl of Lindsey, Aubery earl of Oxford, Charles earl of Shrewsbury, Charles earl of Dorset and Middlesex, William earl of Bedford, John earl of Bath, Charles earl of Macclesfield, Daniel earl of Nottingham, Thomas viscount Falconberg, Charles viscount Mordaunt, Francis viscount Newport, Richard viscount Lumley, Philip lord Wharton, Ralph lord Montagu, Henry lord Delamere, John lord Churchill, Mr. Bentinck, Mr. Henry Sidney, sir Robert Howard, knt. sir Henry Capel, knt. Mr. Henry Powle, Mr. Edward Russel, Mr. Hugh Boscawen, and Mr. Richard Hampden, to whom were added on the 20th of Feb. Thomas Wharton, esq. and sir John Lowther, of Lowther, bart.

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much.—It was for some time under consideration, who should be the other secretary; at last the earl of Nottingham was pitched upon for that post. He had stood at a great distance from the court all king James's reign, and though a privy-counsellor, never went to the board. When the Prince of Orange's coming over was proposed to him, he first agreed to it, but afterwards refused to proceed any farther. However he declared, that though his principles restrained him, so that he could not go on, his affection would make him wish well to the cause, and would be so far a criminal as concealment could make him. Accordingly, he opposed the settlement with great earnestness; but always said, that though he would not make a king, yet, upon his principles, he could obey him when made, better than those, who were so much for making one. The Tories apprehended, that the opposition, which they had given to the king's advancement, and the zeal, that the Whigs had shewn for it, would alienate him from them, and throw him into the others hands, from whom they could expect no favour, but severe returns for the hardships they had put on the Whigs, the latter end of king Charles 2's reign. These apprehensions grew daily amongst that party, and made them begin to look back towards king James. It was therefore thought advisable, in order to avoid exasperating so large a body, to employ the earl of Nottingham. The great increase of business in chancery having led many to apprehend, that it was too much to be trusted with one person, it was resolved to put that court into commission, and the earl was proposed to be the first in the commission, but he refused it, and accepted of the place of secretary of state. This gave as much satisfaction to the Tories, as it begot distrust in the Whigs. The Tories hoped for protection and favour by his means; they reckoned, that he would infuse all the prerogative notions into the king, and give him such a jealousy of every step, that the Whigs should make in their prejudice, that from thence his majesty would see cause to suspect all the shew of kindness, that they might put on towards him, when at the same time they were undermining some of those prerogatives, for which the earl seemed to be so zealous. This had a great effect on the king, who being ignorant of the constitution, and naturally cautious, saw reason enough to dislike the heat he found among those, who expressed much zeal for him, but who appeared, at the same time, to have it with a great mixture of republican principles. They on the other hand, were much offended at the employing the earl; 'and he gave them daily cause to be more displeased at it; for he set himself with a most eager partiality against the whole party, and against all the motions made by them; and he studied to possess the king with a very bad opinion of them. And whereas secretaries of state have a particular allowance for such spies, as they employ to procure intelligence, how exact soever he might be in procuring foreign intelligence, he spared no cost nor pains to have an account of all that passed in the city and in other angry cabals; and he furnished the king very copiously that way, which made a deep impression on him, and had very bad effects.' —The marquis of Halifax having also refused the offer made to the earl of Nottingham, with respect to the Chancery, sir John Maynard was made first commissioner, and Anthony Keck and William Rawlinson were knighted, and joined with him.—The Treasury being also put in commission, lord Mordaunt, afterwards earl of Monmouth, was made first commissioner. He was the first of all the English nobility that came over to see the king when prince of Orange. He was a man of much heat, many notions, and full of discourse. He was brave and generous, but had not true judgment. His thoughts were indigested, and his secrets were soon known. Lord De la Mere, afterwards earl of Warrington, was chancellor of the exchequer. The lord Godolphin* was likewise brought into the treasury, to the great grief of the other two, who soon saw that the king considered him more than them both. For as he understood Treasury-business well, so his calm and cold way suited the king's temper. Mr. Rd. Hampden and sir Henry Capel were the other commissioners. The earls of Monmouth and Warrington, though both staunch Whigs, became great enemies. Monmouth generously gave the inferior places, but sought out men of republican principles: and Warrington is said to sell every thing that was in his power.—The Admiralty was also committed to the care of commissioners; and admiral Herbert, afterwards earl of Torrington, was first in the commission. He was brother to chief justice Herbert. Being pressed by king James, to vote for the repeal of the Test, he absolutely refused, and chose rather than comply, to lose places

* "He was a younger brother of an antient family in Cornwall, that had been bred about king Charles 2 from a page, and was considered at the time that the earl of Sunderland, lord Hide, and he managed affairs, as one of the ablest men belonging to the court. He was the most silent and modest man that was perhaps ever bred in a court. He had a clear apprehension, and dispatched business with great method, and with so much temper, that he had no personal enemies. He loved gaming beyond what men of business usually do, and gave one reason for it, because it delivered him from much talking. He had true principles of religion and virtue, and was free from all vanity, and never heaped up wealth. He had much of the confidence of four succeeding kings. He was Secretary of State in 1684, which he quitted, and was made a Baron the same year. He was concerned in the scheme laid at lady Portsmouth's, by Barillon and lord Sunderland; and was sent by king James to the Prince of Orange at Hungerford." Tindal.

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to the value of 4,000*l.* a year; though his circumstances were very indifferent. He was a man of great pride, as well as great humour, and set a high value on himself, and expected the same from others. With all this, he had a good understanding, and a great reputation for his conduct in sea affairs. He quitted king James and went over to Holland, and was made lieut. general admiral of the Dutch Fleet, that brought over the king. There were six other commissioners named with him.*—Nothing gave a more general satisfaction than the naming of the Judges, the king ordered every privy-counsellor to bring a list of twelve, and out of these, were chosen twelve very learned and worthy Judges. This nomination was generally well received over the nation. The first of these was sir John Holt, made lord chief justice of England, then a young man for so high a post, who maintained it during his whole life, with a high reputation for capacity, integrity, courage and great dispatch. So that since sir Matthew Hale's time, the King's-bench has not been so well filled as it was by him. The rest of the Judges were sir Wm. Dolben, sir Wm. Gregory, and Giles Eyre, justices of the King's-bench; sir Henry Pollexfen, lord chief justice, and sir John Powel, sir Tho. Rokeby, and Peyton Ventris, justices of the common pleas; sir Robert Atkins, lord chief baron, and sir Edward Nevil, Nicholas Lechmere, and Join Turton, barons of the exchequer; and John Trenchard, chief justice of Chester, sir George Treby, attorney general, John Somers, solicitor general, and Henry Powle, master of the Rolls.—All these employments were disposed of at several times within the space of two months. And as Dr. Burnet had been one of the chief promoters of the Revolution, so he was the first ecclesiastic, who reaped the fruits of it, having been elected bishop of Sarum, pursuant to his majesty's Conge D'Elire, on the 9th of March, and consecrated on the 31st of the same month at Fulham, by the bishops of London, Winchester, Lincoln, Landaffe, St. Asaph, and Carlisle, by virtue of a commission from the abp. of Canterbury, who refused to perform the ceremony himself; and three days after the new bishop was sworn and admitted chancellor of the order of the garter.*—In this manner were settled the Court, the Council and the Ministry. As they chiefly consisted of Whigs, the Tories could not but be disgusted as well as some others who had expected a share in the promotions. These last, improving the disaffection and prejudices of the others, a faction was soon formed, which embraced all occasions to oppose and distress the administration. How early this opposition began, will appear in the proceedings of the Convention, which are now going to be related †

The Convention turned into a Parliament.] The first thing that was judged necessary to be done was to turn the Convention into a Parliament. For it had been already said in the house of commons; that the Convention not having been called by the king's writs, their acts were not valid. To obviate this objection which might be infused into men's minds, and to avoid the usual delays, occasioned by the calling of a new parliament, and to preserve a great number of members, that were entirely satisfied with the present settlement, the king, the first time he advised with his privy-council, proposed the question to them "Whether the Convention might be legally turned into a Parliament?"‡ As there were some in the council, who still adhered to forms, without considering the state of things, the council was divided upon the question, but the majority agreed in the affirmative.

The King's Speech to both Houses.] Feb. 18. Accordingly, this day, the king went in great solemnity to the house of lords, and taking possession of the throne, made the following Speech to both houses:

"My lords and gentlemen; I have lately told you how sensible I am of your kindness, and how much I value the confidence you have reposed in me. And I am come hither to assure you, that I shall never do any thing that may justly lessen your good opinion of me.—I think it necessary to acquaint you, that the condition of our Allies abroad, and particularly that of Holland, is such, that unless some speedy care be taken of them, they run a greater hazard than you would have them exposed to.—You yourselves must be sensible, that the posture of affairs here require your serious consideration; and that a good Settlement at home is necessary, not only for your own peace, but for the support of the Protes-

* These were the earl of Carbury, sir Michael Wharton, sir Thomas Lee, sir John Chichely, sir John Lowther of Whitehaven, and Mr. William Sacheverel. This last, who had distinguished himself by several speeches for the bill of exclusion, being little acquainted with maritime affairs, desired the king to excuse him from acting at the admiralty board, on account of his insufficiency. The king replied, 'There are enough who do understand the business, which a man of sense would soon be master of, and he could depend on his integrity.' Sacheverel persisted in excusing himself saying, 'since he was not qualified for the service, he could not in conscience accept the salary.' Oldmixon.

* "Archbishop Sancroft refused to consecrate him, but to avoid a premunire, he granted a commission to any three of the bishops of his province, in conjunction with the bishop of London, to exercise his metropolitical authority during pleasure. Thus, he authorized others to do, what he seemed to think an unlawful act. He was afterwards ashamed of it himself, and sent for the original warrant out of the office, and got it into his own hands." Burnet.

† Tindal's Continuation of Rapin.

‡ See Appendix No. III.

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tant interest both here and abroad. And particularly the state of Ireland is such, that the dangers are grown too great to be obviated by any slow methods.—I must leave it to you, to consider of the most effectual ways of preventing the inconveniencies, which may arise by delays, and to judge what forms may be most proper to bring those things to pass for the good of the nation, which I am confident are in all your minds, and which, I on my part shall be always ready to promote."

This Speech was received with a general applause; and pursuant to the last clause of it, the lords immediately brought in 'A Bill to remove and prevent all Questions and Disputes concerning the assembling and sitting of this present Parliament:' which was read twice that afternoon, passed the next day, and sent to the commons for their concurrence.

Debate in the Commons on the King's Speech.] Feb. 19. The house went into a grand committee on the King's Speech.

Mr. *Medlicot*. To prepare ourselves against any foreign invasion, or intestine troubles at home, there will be a necessity of raising Money, which must be done in a parliamentary way. And if we stay to call a new Parliament, it will be too late; therefore I move to turn this Convention into a Parliament. This being not convened in the royal name, I hope formalities will not be insisted upon to lose the substance. Resolving such an assembly into a Parliament is not without reason nor precedent, both formerly and lately. After the death of Wm. the Conqueror, Robert being in Normandy, Wm. Rufus, the second brother, was declared king, by a mutual stipulation betwixt the king and people, in the nature of Magna Charta. In the 12th Ch. 2, a Convention was called at that king's instance when beyond sea: it was called by desire of the king, when at Breda, and after it was convened several Acts passed; some were confirmed by the subsequent parliament, and some not; and those not confirmed were thought valid by the Judges. I infer from thence that the subjects may upon emergencies meet as well as if called formally by writ, when forms cannot be had; and move to have an Act to declare this a Parliament to all intents and purposes.

Sir *Rob. Sawyer*. We are to consider the king's Speech, &c. for a speedy Settlement of the Nation; and the only way to come at this is a free parliament; and Money being the great matter to consider of, it cannot be raised without a parliament. There are some precedents spoken of, which, if they would at all come up to our case, I should agree to. What is mentioned of Wm. Rufus is mistaken as to the case of a Convention. There was no parliament seven days after he was elected: Lanfranc, abp. of Canterbury, and the rest of the bishops and clergy, were especially concerned in it, and by them he was declared king. As for the precedent spoken of, of the Convention in Ch. 2's time, that Convention was originally a Parliament, and by the seal of that time called to meet in parliament, and had all the formality of the consent of the people; nay, every Act of Confirmation, in the subsequent parliament, styles them a Parliament at their first meeting; they were called by the government *in esse* at that time, and were returned as such; and to this parliament, before they did any thing, the king signified his approbation of their meeting; and when the king came into England, he called them a Parliament. There was then a king *de facto*, and a government *de facto*, and by his consent it is a parliament, and that gives it the virtue of a parliament. The calling it one way or other alters not the case; but the single thing I insist upon is the People's consent. We represent the People to this special purpose; that now, upon king James's withdrawing, we are called hither to supply that defect; and we can proceed no farther, till a Free Parliament with the People's consent be called. If this body may continue to act as a parliament, without breach of elections of the people, I should be for it. It cannot be done unless we break our trust. Therefore as that of Ch. 2 was a Parliament by the king's consent, therefore I move that the king may be advised to issue out new writs to call a parliament.

Mr. *Boscawen*. I appeal to the house whether Sawyer be mistaken, or no, in several things he has said. I will say farther, that the People, who sent us hither, do not only assert the Government, but would have us prevent running back from whence we came; and now that we are got to the top of the hill not to let all fall! I have not contributed to invade the liberties of the people, and am as far from it as that gentleman. But that Convention which brought in Ch. 2 was not so much a Parliament as this Convention. A Parliament is nothing but *parler le ment*. That parliament was called by some members included, and some excluded, the Long Parliament, by the Seal from the Keepers of the Liberties of England; and then with such limitations, that such and such were only to be returned, as if they were taking tests; none that had been engaged in the king's party during the war, nor the sons of them, unless they had given testimony of their affections to the government; which renders that parliament as far from freedom of choice, as white is from black. And in the Bill for Triennial Parliaments, the chancellor was of course to issue out writs, and for defect of his issuing them out, the officers of the country were to do it by themselves; from whence I gather, that there is no such essential thing as a Writ for chusing Members. If you take the advice of the learned gentleman (Sawyer) to call another parliament, and dissolve this, Ireland may be lost; and the king of France would give 100,000*l*. to accomplish it. I am jealous there is a snake hid in the grass, and that there is something more in this, than we see. Consider, if this be no Parliament, then you may suppose that the Throne never was vacant, and that it is now full; and how will

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you get a parliament? and some look on the other side of the water. Upon the whole, I would consider the relief of Ireland, and to assist Holland, which has helped to preserve us, and take up this debate for the present. No other design can be in this, but to put us all to stand upon our guard again, and fight out our way, and be upon no bottom: if we retract, and go so far as is moved, we shall be all ruined, and go back again to our misfortunes.

Sir *Tho. Clarges.* I am not of Boscawen's mind. I hope I may say I never did any thing to intringe the Liberties of the People; and though the wind has been in my face, gentlemen that were never in the parliament before know, whither this matter may be carried. In the two last reigns, there was making distinctions of persons here; we were reproached that we voted against the king, when we gave our votes freely according to our judgments, and that, by these practices, we represented but part of the people, and not the whole nation. I meant no otherwise than that the king should govern well. I brought in the Habeas Corpus Bill, and what I say now is with my conscience and mind. As to what is now in debate, I hope we may have a free-chosen Parliament in 25 days, the formality of 40 days from the test of the writ to the election not being necessary. In the Assembly at London before this Convention, the proposition was, how the prince of Orange might come to a free Parliament. It was advised, that Letters should be sent from the Prince into the counties and boroughs, &c. in order to the choice of a Free Parliament; and I gave my voice for it preparatory to that: and since it has been voted here, that the Throne was vacant, I am satisfied, though I was then against it. I question whether, upon this change, our alliances do subsist against that great monster the French king, who invades the Hollanders. I hope the Revenue, which is 2,200,000*l.* may support Ireland. When you met the 22d of Jan. and proposed that the Prince should have the Administration of the Government, you omitted one great thing; viz. to advise him to possess himself of the Revenue. I propose now that all the Revenue of James 2 may be used by the king, and there will be no fear of running back from whence we came, as you have been told; but by not calling a Parliament, we put all to hazard, and that the Money we shall raise will not be paid; and will the Judges in Westminster-Hall declare this to be a Parliament? I sat in the parliament of 1660, which had qualifications from the members, but they were not observed. It was summoned in March to meet the 25th of April. Here was then a king *de jure* kept out by wilful means. The Convention, in 1660, had Letters from the king, who recognized them a Parliament, and it was never called a Convention by the king, nor by any act of parliament; and the Acts afterwards ran 'Whereas by act of parliament, &c.' Lord chief justice Hale, who sat in that parliament, was of opinion, it was a Parliament, and that they were under the trust of the People, and the writs that called us, were not called 'no writs;' and if you make this a Parliament, you elude the Prince's Declaration, which says, 'No Money to be raised but by Parliament.' Can it have any other meaning than that writs shall be issued out to chuse a parliament; and shall we give occasion to say that the king enters into the government by prerogative, and our parting with our Privileges? It has been said, 'How can we have a Free Parliament chosen in time? The necessity of affairs cannot bear it.' I can consent to an Ordinance, or any declaratory instrument, that the Oaths and Test ought to be taken by members, before admitted: and when a Free Parliament shall meet, I doubt not but they will ratify what we shall do; and now, that there is a Revenue for the present necessity of affairs, and a new Great Seal now made to issue out writs of summons, who would put this upon a mere point, whether this be a parliament, or not?

Debate on the Bill for preventing Doubts concerning the assembling and sitting of this Parliament.] This day, a Bill was sent from the lords to prevent all doubts and disputes, which may arise concerning the assembling and sitting of this present Parliament; which was read the first time.

Mr. *Hampden.* I hope this bill will tend to your Settlement. I observe, the lords make it more frequent to read bills twice in a day than here. The house of commons are always strict to their Order; and I would not be thrust on by the lords to hasten the reading this bill. I move, that it may be read again to-morrow morning.—Which was ordered.

Sir *Edw. Seymour.* I see gentlemen speak here under great disadvantages. If they are not free in this Convention, what shall we do in Parliament! When gentlemen speak with reflections, and cry, 'hear him, hear him,' they cannot speak with freedom. I speak not this to the Chair (the Speaker) who keeps order well, but to what passed at the committee. Shall you put it into the power of the lords to lay aside any of your debates, by sending you a bill down? I would not remove land-marks to posterity. If you are satisfied that this is not a pretended necessity, but really; not in name, as the Ship-Money was made, of necessity, which disturbed all your laws, I would have you leave the chair, and go into a Grand Committee, for freedom of debate, to establish our security upon a good foundation. It is not 4 or 500 votes can do it; but to arrive at the knowledge of this matter, I desire to go into a Grand Committee.

Sir *Henry Capel.* The Chair has taken care of order; and I have seen no disorder to-day. When Seymour was in the Chair, I have heard 'Hear him, hear him,' often said in the house. Seymour says, 'He would not have us tied up by the lords to what they do.' I take it, the lords and commons are to take

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care of the government, and we ought to agree with the lords as soon as we can. Had the committee begun upon Heads, we might have gone on; but by degrees we are gone into the matter of the lords Bill. Seymour told you, 'That it was necessity that first brought on the Ship-money:' but it was the practice of ill ministers and lawyers, who turned old Rolls to ill interpretation against the Liberties of the People. If ever there was a necessity to warrant making us a Parliament, there is one now. Are we in Peace? Is the state of Christendom in so good a case as we can boast of? Seymour tells you of 'the Great Man of War.' If you sit not here as a Parliament, the king of France will give millions to make a separation in the nation.

Sir *Tho. Clarges.* I am called up by what fell from Capel about Peace, &c. I hear no war declared yet, but I would put nothing to hazard: You may have a Parliament in three weeks; and we are better justified in that than any other method. The Revenue for the present will supply Ireland. We have forces already in pay, besides those the king brought in. I am glad to see so many worthy persons promoted to dignities; and I believe they will preserve our privileges. But as to the method lately taken, to make distinctions, and to be pointed at in Westminster-Hall, as one of 150 against the Throne vacant; to have printed papers of men of one side and the other: yea, the Peers, —I hope the gentlemen of the council will prevent these distinctions.

Mr. *Hampden.* We are collaterally launching into what is not resolved on by the house; to talk of the formality of calling a Parliament in less than 40 days—But pray keep your own formalities. The motion to adjourn the debate must properly be put; or put any thing regularly, and I will serve you to an 'And' and an 'I.' If you debate this, you would all day long debate what you resolve not, viz. Whether you will debate it, or not.

Sir *Rob. Howard.* You have already resolved to read the lords Bill to-morrow, and then the proper debate will arise that you are upon to-day. I have heard no arguments to-day to discourage the debate. We are obliged to read the lords Bill a second time. Put the question for adjournment.

Sir *Rd. Temple.* I hope we may arrive at all the ends that any gentleman can desire. To-morrow, at the Grand Committee, you will have all the freedom of debate you can desire; and I would not anticipate the debate till it be regularly before you. But it is a strange thing I hear from Sawyer, 'That we cannot speak for the Bill at the first reading,' which you may throw out. Is it not a hard thing to speak against it, and not for it?

Sir *C. Musgrave.* Gentlemen tell you, that the question is, Whether adjourn, or not? but with great submission, I affirm, Reasons may be given why you should not adjourn. You are told, 'When you read the Bill to-morrow, you have the same liberty as now;' but then your Bill is to be committed by a question, and that is gaining the point. The point, then, is only agreeing with the committee; but when it comes to the house, you may throw it out, or not. It is a matter of the greatest consideration, that there should be freedom in debate. Some men can declare their thoughts at one time; others are not so happy, but must speak oftener. If, then, it be necessary to speak twice, God forbid but a gentleman should do it! But if not, no man here can believe you are inclined to make this a free Parliament. I would proceed to the consideration of the king's Speech.

Sir *Edw. Seymour.* I speak to order. It is not the lords Bill you are upon by order; it is the king's Speech, and you cannot restrain it.

Feb. 20. Sir Henry Capel delivered a Message from the king, to hasten the matters before the house recommended in his Speech. After a long silence,

Lord *Falkland.* The last part of the king's Speech ought to be considered first, as I take it. If we have not the power of a parliament, we can go upon nothing. There are precedents to justify the lords Bill that they have sent us. We have great works upon our hands; as that of the Relief of Ireland, and to assist our Allies, &c. and the Nation is in an unsettled condition. The lords Bill is a foundation for us to build upon: and I move, that we may follow the lords example.

Mr. *Howe.* We have had learned discourses upon this subject yesterday, and precedents were brought us. If the matter arise upon what is law, I shall not speak to that part, nor what has been done formerly, but to what is fit now. I respect our ancestors, who always followed the necessity of affairs. It is unreasonable in a sick man not to take any physic but what has been prescribed him formerly. We are come out of the greatest tide; and, to prevent the danger, let us throw a good defence against it; but if we cannot make a perfect one, it is our malicious enemies that throw it down. The French king was so formerly, and our own late king, a Papist now in France. There is a certain sort of loyalty, called 'Passive Obedience,' preached by some of our Clergy, who would pick holes in our bank to keep out the tide. They say, 'Necessity has no law;' let us make one for it, and agree to the lords Bill.

Serj. *Maynard.* I do not wonder that men are silent in a matter of so great consequence. On the consequence of this debate to-day will not only be the safety of the nation, but the Protestant Religion abroad. We make not a step, but we are told of errors in the method, still to put a stop to it. Here has been a great ado about words, 'the Crown vacant,' and 'Abdication.' And we have have been told what the People were, and 'that we must look to our safety' (by Sawyer;) but you are past all these; and now you are moved to make this Convention a Parliament; but I think we

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are one already. What is a Parliament, but king, lords, and commons? Pray read the 1 chap. of 12 Ch. 2. When the king came in, that Convention (or call it what you will) Resolved, 'That, without a writ from the king, they are a Parliament,' notwithstanding they had no writ from the king. It is grounded upon the greatest law in the world, the law of the 12 Tables of the Romans: '*Salus populi suprema lex esto.*' All laws must give place to that law: It is the great law of all, self-preservation. Now read that statute of the 25th of April.—[The Statute was read.] When the king came in, the 20th of May, the parliament had no writ to call them. We sat here, before this king was declared, and we are so far like that parliament. I shall hearken to the debate, and give my opinion.

Sir *Tho. Lee.* I would not trouble you, but that I find you entirely at leisure. Says Maynard, 'You cannot make this a parliament, because you are one already from the beginning.' If nobody be against it, pray let the Speaker take the chair.

Sir *Rob. Howard.* Here seems a general satisfaction in what has been said: therefore report it to the Chair.

Sir *Edw. Seymour.* If I were satisfied this was a Parliament, I would not go about to offer reasons against it. If I am put on that stress, to say my opinion, I will not justly move to exceptions. If I do not fully come up to their sense, I hope they will give me their pardon, as I shall do to them. If you concluded 'the Vacancy of the Throne,' I am concluded by it. For the preservation of the Protestant Religion, those ways are most prudent that are most legal and lasting. This Bill from the lords began there; on Monday it was twice read, and came down here on Tuesday: it is a great rarity, and much done in little time; and I never saw a Bill of so different a nature. It makes every man in as high a nature criminal as the law can make it. You declare yourselves a Parliament, and the law says, you are not a parliament; and so we are all liable to the statute of the Tests, and all incapacitated to sit here: and, then, those who were for dispensing with the Penal Laws, and joined in those things, you bring yourselves under the same capacity. I would have the gentlemen of the long robe tell you, whether if you declare yourselves a Parliament, you are not liable to the statute? When it is neither legal nor prudential to do it, whether then is it necessary? That Statute, which Maynard mentioned, could not make that a parliament which was none before. That parliament had the consent of the king *de facto* and *de jure*; there wanted only the king's writ of summons. If they say, you were no parliament before, what record will make you a parliament now, is no where to be found. The law requires, that the sheriff return the jury of nisi prius, and the criminal, &c. who are not always the best men of the county. Suppose the bench impannel the best men in it, there is the substance, the judge, and the bench, but there is not the form. Necessity is a great commander, but an ill companion, and a worse counsellor. And this house must expect, in other cases, never to want that argument. Some precedents have been spoken of, to induce this method; one of Wm. Rufus, (which is of no authority to govern you) how the nobles did assist him against his brother Robert, who claimed the crown; but that was no parliament, nor had the power of a parliament. The only precedents mentioned are those of Wm. Rufus, and the 12th of Charles 2. They made not themselves a Parliament, but in relation to the Long Parliament that dissolved itself, and that done with a 'ne trahatur in exemplum.' When the people are called together, by such writ as this, I am bold to say, there are no precedents. It has been said, out of doors, this is by the precedent of Edw. 3. I find that matter totally mistaken: Edw. 2. was driven out of the kingdom by his son and his mother: he absconded, and by a wind was driven into Wales, and her son was *custos regni*. And the first act of Edw. 3. does declare, 'That, whereas the late lord Edw. 2. by the general advice and assent of his earls and barons, had voluntarily removed himself out of the realm, they declare Edw. 3. regent of the realm.' I would not, as other gentlemen say, stick at precedents, and think that you are as well qualified to make precedents as to follow others. Yet, there is no necessity to remove ancient land-marks, and to let our purses run out at the back-door. Our condition is attended with many difficulties; Ireland is in ill condition, and we hear nothing from Scotland but uncertainty. The king of France has been the Devil and walking Ghost in every parliament. What could you expect from Ireland? They will own no obedience to the Prince of Orange, but when he is crowned. They are so far from coming to you, that they are driven from you. The person (Hamilton*)

* "Lieut. Gen. Hamilton was sent over to Ireland. He was a Papist, but was believed to be a man of honour, and had great interest with the earl of Tyrconnel. So he undertook to go over to Ireland, and to prevail with the earl of Tyrconnel to deliver up the government; and promised that he would either bring him to it, or that he would come back, and give an account of his negotiation. This step had a very ill effect; for before Hamilton came to Dublin, the earl of Tyrconnel was in such despair, looking on all as lost, that he seemed to be very near a full resolution of entering on a treaty to get the best terms he could. But Hamilton's coming changed him quite. He represented to him, that things were turning fast in England in favour of the king; so that, if he stood firm, all would come round again. He saw, that he must study to manage this so dexterously, as to gain as much time as he could, that so the prince might not make too much haste, before a Fleet and Supplies might

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was so far from bringing them over to obedience, that he makes it his endeavour to keep them from you. I speak with good intention to the Protestant Religion in Ireland, which is in danger to be gone with him. Through all the course of my life, I had rather have unkindness than carry on an ill thing about me. A great many preliminaries ought to be thought of; you will not think fit that England should be at all the charge to reduce Ireland: you know formerly there were Adventurers, and you may raise a great deal of money that way. There are two ways to reduce Ireland; present supply of arms and money; but, if not, such as will preserve you, and master them: they will be masters of whatever you send, if you attempt, and fail in the attempt; and it will be hard to reduce it after. I speak this, not thinking there is a necessity for Money to carry it on. The present Revenue will go a great way towards it, together with the public security; and no doubt but loyal London will supply their Prince upon this exigency, and will supply fully, rather than let the work stand still. We are called as a Council, and may so continue; for we have no declared enemy, and are in a condition of peace till war be declared; and there is none, and we have no league. Can we require any thing to be done, before the king be civilly dead, and parties not in being? I speak not this to reflect on him that has done so much for us. I would not only have him paid the charge he has been at, but have England's bounty too to go along with him. England has done formerly for Holland, as Holland has done now for England. But I should be glad to see us a legal Parliament, that we may have the people's hearts along with us; and then we shall be sure of their Money. As a Council, we may sit, and represent to the king, that we are not impowered by those that sent us, and desire him to issue out writs to chuse a parliament. The Revenue last year was 2,100,000 and odd pounds; the expences 1,800,000*l.*; a large proportion of it to the Fleet; many Pensions, and for Secret Service; I hope we shall hear no more of that: besides the Privy Purse 150,000*l.* You have sufficient for all your difficulties, and need not turn yourselves into a Parliament for that. In the Palatinate War, you had a committee to manage it. And you may have time to digest all for Ireland, and writs may go out. In the mean time, we may sit as a Council, and this will bring us into no difficulties. I have delivered my opinion, and now do what you please.

Serj. *Maynard.* If Seymour speaks confusedly, I must answer him confusedly. He seems to speak with great reason at first sight; but, looked into, it is just nothing. I will answer him to what is material as well as my old memory will run along with him. 'When we cannot have a legal parliament, how shall we possess that which is legal?' He spoke of the Statute, &c. and Tests: the objection is true; no parliament can sit here, till they have taken the Oaths and Tests: but, under favour, that will not come to our case; that Oath was to the late king, and now, what oath can we take to a king out of the throne? You remember what he did, and your Vote upon it. Can we swear still? I hold it impossible to take that oath, and that act does cease of itself. I do not say we make ourselves a parliament. But if this be declared a parliament by a parliament of the whole nation, who dares say against it? It is impossible to take the Oath of Allegiance, without being perjured *ipso facto.* I would have Seymour answer me, as I do him: shall I swear to an impossibility? A man in a wilderness, and out of his way, asks, Where is the high-way? That gentleman cries, where is the Law? When we cannot find it, we must have recourse to the law of nations. *Salus populi suprema lex esto.* Says Seymour, 'There is no necessity to make this a Parliament; there is no king, nor any declared enemy beyond sea:' but he that would destroy his own people for Religion, I am sure, is no friend of ours. Is he not an enemy that receives all that go from us in discontent? I would not have you entangled with a fine speech; I hope we shall not farther dispute upon words, as we have done some weeks, but necessity puts us upon the best way we can take. All the event of this will be to make a difference betwixt the lords and us. I will not say it is Seymour's intent, but what greater difference can there be than when the lords say we are a parlia-

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come from France. So several letters were wrote over by the same management, giving assurances, that the earl of Tyrconnel was fully resolved to treat and submit. And, to carry this farther, two Commissioners were sent from the Council-board to France. Their Instructions were to represent to the king the necessity of Ireland's submitting to England Tyrconnel pretended that, in honour, he could do no less than disengage himself to his master before he laid down the government. Yet he seemed resolved not to stay for an answer or a consent; but that, as soon as this Message was delivered, he would submit upon good conditions: and for these, he knew, he should have all that he asked. With this management he gained his point, which was much time; and he now fancied that the honour of restoring the king would belong chiefly to himself. Thus Hamilton, by breaking his own faith, secured the earl of Tyrconnel to the king, and this gave the beginning to the war of Ireland. Those who had advised the sending over of Hamilton, were much out of countenance; and it was believed that it had a terrible effect on sir Wm. Temple's son, who had raised in the Prince a high opinion of Hamilton's honour. Soon after that, he, who had no other visible cause of melancholy besides this, went into a boat on the Thames, near the bridge, where the river runs most impetuously, and leaped into the river, and was drowned." **Burnet.**

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ment, and we shall say, we are not a parliament? There is a great danger in sending out writs at this time, if you consider what a ferment the nation is in; and I think the clergy are out of their wits; and, I believe, if the clergy should have their wills, few or none of us should be here again; and never any Popish prince but would not only be the destruction of the Protestant Religion, but the Protestants must go to pot; as in France, Bohemia, and Hungary; and all by the instigation of the Clergy. What is a Parliament then? The Convention was not called by the king's writs legally, yet were declared a parliament; and you will not declare yourselves no parliament, unless you are out of your wits.

Mr. *Eyre.* The matter you are upon is of great consequence; therefore I hope you will pursue those counsels which tend most to peace. The way to those ends is full of difficulties. I shall not meddle with politic considerations (with Seymour) but the proper matter now before you. The objections against the lords Bill return upon them that made them. If we are not constituted a Parliament under these circumstances now, we may never have one in England more—13 Ch. 2, 'No Members are to sit till they have taken the oaths by the statute 5 Eliz.; and the oaths not taken voids the election:' then all those elections were void; unless those acts are repealed, how will you ever come by it? Must not the next parliament make themselves one by a law? But if a false step must be made, why should it not be by us, whilst our wounds yet bleed, and not leave it to another body of men to heal, six weeks hence, and the wound past remedy? Being to build as of old, with weapons in our hands, as the Jews did, I would not lay them down till we have built in security. We are in an infant government, if I may so style it; it must be preserved by the hand that brought it up. Are we sure our successors will be of our mind? Nay, the present ferment of the nation, which time may quiet, may be so hot as to give up their own security. The present necessity is great, as great as the support of our honour, religion, and country—necessity abrogates all laws. The precedents of this, that are demanded, are not to be expected: it is not in every king's reign that he abdicates the government. As to the precedents of Edw. 2, and Rd. 2, none of these come to our case immediately: necessity gave them a sanction; and where there is the same necessity, there is the same reason. We are as full a Representative as can be had; by the call of the Prince's Letters, we have the best Representative of the People that could be had. Is the difference of a writ and a letter put into the scale with the safety of the Protestant Religion? We may 'pay tythe of mint, anise and cummin, and neglect the greater matters of the law.' Tares may be sown whilst we are absent; which to prevent, and bring forth peace, so luckily brought to the birth, I would have the lords Bill read a second time.

Sir *Robert Sawyer.* As to what Maynard said with reflection on the Clergy, I desire to take off that reflection. They have as great a submission to your Vote as can be. I speak of the clergy of Cambridge. I had a letter from Cambridge yesterday, (the place I serve for) which gives me notice, that they are very well satisfied with what you have done; and if they had time, they would have petitioned for a Parliament to be chosen; and I have authority from them to let you know they are to give Money to support the government; and I know how to give my vote. The oaths must be taken, or else all we have done is void; therefore whether you will do it now like those in authority.

Sir *Tho. Clarges.* I stand up with great trouble. As I am now advised, if this Convention be turned into a Parliament, it is the greatest disservice you can to the king. I would preserve both his honour and safety. If any thing be wanting in the Revenue, nothing can supply it but a parliament. You may have a parliament in 25 days; 1,200,000*l.* may be raised for Ireland and Holland, all the charge of the government, and for provision for the royal family. We may spare a million, if such a sum be requisite, to assist us for the present, and for other things they may keep cold for a month. If this be so, we are not in such danger as to fly out of the window. Some things necessity has drawn us into; those are of the least necessity; but to raise Money is the greatest thing. I hope it is that the king expects from us, and that we are not trusted to do by those that sent us. In the reign of Ch. 2, the parliament did settle a Revenue on the king's two brothers; the officers of the revenue told us, that it was not 200,000*l.* a year. A great man told a story, that a sum of money was paid, and wanted a crown; the party would have told their Money, but the other would not let him. They would not let the committee then examine it, for certainly they would have found it more. Where there is a necessity to give, I will give as plentifully as any body, but let us do it fairly, and by full authority. As we are, we shall have no credit upon it; when we come again we may be a lawful parliament; and I believe the people will send you again. A merry man said once in this house, 'Some can stop and turn managed horses.' As for the Clergy of London, they are as learned as any since the time of the Apostles. The Church of England brought us in Ch. 2, and stood constant in these last trials. I ever thought those laws too hard to press mens consciences. They stood like Apostles in Magdalen College case, which is remarkable. I hope the vacant bishoprick of Salisbury* will be filled with one of that College. *Salus Populi* is *suprema lex*, you are told, but if ever you break down the hedges of the government

* Vacant by the death of bishop Ward. Dr. Burnet was advanced to it.

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—And properly we cannot agree with the lords.

Serj. *Maynard.* There is only one question to be insisted on, whether we are a Parliament, and what we shall do when we are a Parliament? Clarges speaks honestly, as I believe he thinks. As for the Clergy, I have much honour for high and low of them, but I must say they are in a ferment, there are Pluralists among them, and when they should preach the Gospel, they preach against the Parliament, and the law of England. I did not speak against the clergy in general.

Col. *Birch.* I have heard a debate of this nature 40 years ago, and I stand amazed at it: I will not bring the precedents of Edw. 2, and Hen. 4, to justify our proceedings, but what I remember of my knowledge. I hope we shall not fall under this debate now, and not 40 years ago, when we were under much harder circumstances, when any little words dropt then, about the validity of that parliament, they were smiled at, and not worth an answer. When Oliver was proposed to be made a king here, that was laughed at then; and I believe this debate will be so now. I intreat a little of your patience; that parliament of 1660 was not so clearly called as this. Cavaliers were excluded by those that had power to do it, and they did it. It was called by writ from the keepers of the liberties of England, that brought us hither. Then all the learned gentlemen here, sir Matthew Hale and the rest, were of opinion, it was a Parliament to all intents and purposes, and nothing of a Convention was spoken of; and to work they went, and very vigorously, and not one question was made of the legality of that writ, and that parliament gave two assessments of 60,000*l.* per mensem, before that Act came in to declare it a Parliament; but there was a great deal more done before the king came in, all the acts that could be done that were necessary, and if one word was spoken against it, it was smiled at. That objection about the Oaths has some weight; but in that parliament of 1660 not an oath was taken: about six weeks after, the duke of Ormond gave the oaths to the members, which was far from any regularity; and at the opening that parliament, there were not above eight or nine lords in the house. There was a Fast ordered, and a Thanksgiving, and conferences with the lords, and not one word of questioning the validity of that parliament; and now that God has done this for us, to make difficulties when really there is none, I cannot see them, from what has been practised. Now, to show you the consequence; for Money should you stay for another parliament, if you get one in three weeks, a plot may be upon you, in the interim, and then you will have difficulties still, and perhaps more than are on you now. And will you, by throwing away this opportunity, void all the blessings God has given you? You have, by God's providence, a king that denies you nothing, and now we would be scrambling again for Religion. I see a wheel within a wheel in these things. I would look on the wheel within my eye. But suppose another parl. (it seems) must have the thanks for what has been done, and not you; they must be the white boys. You have it before you, go on, make your prince love you; but it seems you shall not do it, and a succeeding parliament must make a fine hand of this work for you. When once May comes, it will not be pleasant sitting here. Many worthy gentlemen formerly have lost their lives by it. Great revolutions may be in one year—and you are lost for your Allies, Religion, and all you have. This over-runs all; think on this seriously, and go forward with heart and hand: God has done it all; let us not throw it down again. From the best of precedents, that of 1660, you are a Parliament; you make not yourselves a parliament. Pray go on and read the lords bill.

Sir *Tho. Lee.* I think we are a much better parliament than that of 1660. I would know where the writ was then that called the lords? Parliaments are not the same things they were from the beginning; they have had variations. Was not the Prince of Orange invested with legal authority by you? And the returns of us hither recorded? If you are not a parliament, how can you represent the people in a parliamentary manner, and then what becomes of your Instrument of Government, and what else you have done? The laws against Popery, and the Test, were made when you had no prospect of king James's abdication; and where were the Oaths of Allegiance, &c. when these gentlemen went in to the Prince? I believe the people like you so well, they will either send you again or better. Clarges has told you, you cannot raise Money, and, at the same time, tells you, the Revenue may be raised for present use. We are told of relief of Ireland; and what next must be told? You are no Parliament, and you raise the king's Revenue. The king may search for his Revenue, and will find it no more legal than now, and no oaths taken—I say that you are and were a Parliament, from the beginning.

Sir *Rd. Temple.* I shall offer something not yet touched upon. Has any man said yet we are not a full and free Representative? Formalities are wanting, you are told, but they are such as could not be had; your elections were as free as ever. No precedent was ever of a freer. In the parliament of 1660, there were qualifications for the members, and the lords were not called by writ, and (a greater thing,) a Commonwealth called it, which was quite another government. There was a time when parliaments met without writs, and king John's was the first called by Letters, as now, and nobody having showed any thing against the authority that called you, I will not labour it. In Henry 4th's time, the same parliament was called again, and they raised Money. When the Assembly of Lords and Commons met, the prince said 'he would advise with them of the best manner to call a free Parliament;' and

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they advised him to send his Letters. Have not you done the greatest thing, and now stumble at the less? How you can justify all you have done, if you are not a Parliament called in as good a manner as could be, admits no answer.

Sir *Wm. Williams.* It is strange we should be here a month, and now question whether we are a Parliament. If we are called by all the power of England a Parliament, then certainly we are so. Taking it for granted that you could not have such a writ as is usual, can you be better called? I am sorry there should now be such a debate. If you say you are no parliament, you immediately pass judgment against yourselves; you make yourselves the greatest fools, and something else, and act like children; you have acted without call, and all you have done is void. It will be a strange question upon your books.

Sir *Henry Capel.* I would encourage and assist this king that desires to live with parliaments. Leave him not alone six weeks, but let it not be upon your books that there is any question upon this matter.

Mr. *Pollexfen.* I can say no more than what has been mentioned. That nothing may appear on your books on this occasion, put the question for the Speaker to take the chair.

Sir *Christ. Musgrave.* I think you cannot put the question for the chair. If you consult the order, it is about nothing of the Bill from the lords, but only 'to consider the king's Speech.' That is all I have to say at present.'

Mr. *Boscawen.* I agree, we can take no notice of the lords Bill at the committee; you are only to consider the king's Speech, and I desire to-morrow you will go upon it. And when the Speaker is in the chair, you may call for the lords Bill.

Sir *Tho. Lee.* Many without doors discourse so much of difference in opinion here in this matter, that I would therefore have the question on the books.

Sir *George Treby.* I am fully satisfied that you are a Parliament. For the honour of the house, declare you are a parliament; though not for the honour of those that opposed it, yet for yours. If you consider the prince's advice, in his Letter, he described a parliament; whoever denies us to be a parliament, denies there is either king, or lords, and commons. Declare yourselves one, and you will do yourselves right, and defeat the designs of your enemies.

Mr. *Godolphin.* I am sorry to differ from several in this great assembly. I have heard it said, 'If this be not a parliament originally, we cannot make ourselves one.' I believe those who sent me hither, have given me no such authority. I believe we are well chosen, but only for a particular purpose; which purpose we have accomplished. I am afraid, if gentlemen look into the Returns by which they sit, they will find they have no such form as the old Returns, [and reads his own Return] which is thus, 'according to the annexed Order and Letter,' which is in order to call a free and legal parliament. If the gentlemen of the robe will give it under their hands that this is a Parliament, I will agree; (the crown, I believe, is worthily placed) but if I am not satisfied in my conscience and judgment that this is a parliament, I must be excused for my negative. To have every body well satisfied, your best way is to fasten the king by a legal parliament. Before you leave the chair, put a question to establish the Revenue; and that the king may have power to charge it for present emergency, sit and prepare matters for another parliament.

Sir *George Treby.* The main thing that sticks with this gentleman, Godolphin, is the authority of his borough, and Sawyer had his authority by last night's post. If Godolphin will let me read that part of his Return he has not, if it imports he is a member of parliament, he is one, though possibly, he was not so sensible of it before. [He reads the words in English, translated, in the Return.] Here is the plainest authority to chuse the member by the Letter, and all authority contained in the Return that can be, and I hope this gentleman will now concur.

Sir *Robert Howard.* One thing has been omitted; we are all for a Parliament, and yet speak against it. All would have us be doing with Money. And if Godolphin's borough sent him to treat about Money, and we are not a Parliament, he has the largest commission I ever heard of.

*The Convention voted a Parliament.**] Resolved, "That it is the opinion of this com-

* "The commons agreeing to the Bill, it received the royal assent, and the Convention was from that time called the Parliament. This Act was to commence from the 13th of Feb. the day on which the royal dignity was accepted by the king and queen, and instead of the old Oaths of Allegiance and Supremacy, the new oaths were enjoined to be taken by all the members of each house, from, and after the 1st of March next ensuing. Accordingly, a day was set for the call of both houses, and for requiring the members to take the oaths. Upon the passing this Act, several members who had before protested, that they would neither submit to the decisions of such a parliament, nor sit in it, absented themselves, and retired into the country on frivolous pretences. And when the time came for the members to take the oaths, though they were refused by few or none of the commons, several lords, both spiritual and temporal, would not take them. As the duke of Newcastle, the earls of Clarendon, Lichfield, Exeter, Yarmouth, and Stafford, and the lords Griffin, Stawel, and one or two more: these were all, at several times, summoned to attend the house, but most of them continued absent. The spiritual lords that absented themselves were Sancroft abp. of Canterbury, Turner bishop of Ely, Lake of Chichester, Ken of Bath and Wells, White of

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mittee, That the lords spiritual and temporal, and commons, now sitting at Westminster, are the two houses of parliament." Which Resolution was agreed to by the house.

Debate on the King's Speech.] Feb. 25. The commons went into a Grand Committee on the king's Speech.

Sir *Thomas Clarges.* We have great obligation to Holland; but I believe in ten days time we shall have an Account. The condition of Holland is, they are at war with the greatest power in the world. I would know the condition of our Alliance with them; perhaps we shall enlarge it. I would not be hood-winked. I would fully know it, and I hope we shall give sound and good advice. Though Holland has done great things for us, and though Holland is first in the king's Speech, I believe it an inadvertency. Ireland goes nearest us, and is of the greatest consideration. I would know the condition of Ireland; which is not to be done without a clear representation of it exposed to us, and I care not how soon it may be. I fear to-morrow will be too soon, the king being at Hampton Court.

Mr. *Hampden.* I was not at the first part of the debate, but it seems to tend to the king's Speech, which declares his desire that you would consider of Alliances abroad, and of Ireland, which relates not only to our being, but our well being. It is said by Clarges, 'he would have an explanation of the king's Speech.' The king is not in town; but what use of it, if he were in town? You have his Speech, but if you would have particulars day after day, you will have no use of it; but whether will the state of affairs bear your particular consideration? I am not moving for Money, but whether you will have a long series of affairs, now every body expects its action. Your friends are afraid, and your enemies laugh at delay. But if any man moves for Aid, then, by order, you must appoint a day to consider of it. I wish with all my heart the house would consider of an Aid to the king, and I hope it will be for the honour of the king, and the nation, as much as can be, and I move you will consider it to-morrow.

Sir *Tho. Clarges.* There is nothing yet before you to answer that motion. I am as forward as any body to aid the king, but we are not proper for that till the State of the Revenue be brought in and exposed to you, which may do sufficiently. The long robe are of opinion, that the king is invested with it, and in possession of it, and holds it *jure coronæ.* I know in last king James's time, the first thing spoken of in parliament was Aids, though I know heretofore Aids used to be the last. I hope we shall not be told we want affections to the king, but I would go by the steps our ancestors have trod in. I would know what the Revenue is, and then the uses to put it to. Ireland will cost so much, and Holland so many men and ships; when the Charge is before you, we shall know our measures, and till it is clear to us that there is an use of Aid, it is not at all proper to consider it; therefore I move to adjourn this to Wednesday.

Mr. *Pilkington.* I move that, without delay, we may speedily fall on consideration of the king's Speech, suitable to what the parliament is called together for.

Mr. *Howe.* I am well pleased we should consider the relief of Ireland, but our affairs at home fright us more than those abroad; the old Army is rather grown worse than mended.

Peterborough, (these were five of the seven bishops sent to the Tower by king James) Lloyd of Norwich, Thomas of Worcester, and Frampton of Glocester. Sancroft had been archbishop ever since the year 1676. He was a man of solemn deportment, and considerably learned. He lived abstracted from company, and was fixed in the old maxims of high loyalty. He was named in the Ecclesiastical Commission by king James, but would never go to that court, nor declare against it, though he thought it illegal. He joined in the Petition against reading king James's Declaration for Liberty of Conscience. He met the privy-counsellors at Guildhall, and invited the Prince of Orange to take the government upon him, but refused to go with the rest of the bishops to welcome him to St. James's, though he had once agreed to it. When the Convention met the 29th of January, he came not to take his place among them. He resolved neither to act for nor against king James's interest, which was thought very unbecoming in one of his high station. For since he believed, as afterwards appeared, that the nation was running into treason, rebellion and perjury, it was strange to see him, who was at the head of the Church, sit silent all the while, and not so much as declare his opinion by speaking, voting, or protesting. But he was a poor spirited and fearful man, and acted a mean part in the whole affair of the Revolution. He went on afterwards in the same unactive state, still refusing the Oaths, but neither acting nor speaking, except in great confidence, to any against their taking them. Thomas and Lake, who both died soon after, like the archbishop, never came to the house of lords. When the other five withdrew from the parliament, that they might recommend themselves by a show of moderation, some of them moved for a Bill of Toleration, and another of Comprehension, whereby all moderate Presbyterians might be reconciled to the Church of England, and admitted to ecclesiastical benefices. These bills were drawn and offered by the earl of Nottingham, for which he received the thanks of the house. From this time may be dated the rise of the Non-jurors, who, rejecting the notion of a king *de jure* and a king *de facto*, as well as all other distinctions, and limitations, strictly adhered to the principle of the divine right of kings, and were the authors of all the plots and conspiracies against the new settlement, which they refused to acknowledge." Tindal.

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I have a letter from my corporation (Cirencester) that the soldiers quartered there, will not let the people make bonfires at proclaiming the king, and they are not checked by their officers. If you give pay to the officers, it is not convenient the soldiers should have pay to cut our throats. Let the Army be in the hands of those the king may trust, and then give Money. The letter acquaints me, with all the terror that can be expressed, that the soldiers are so insolent there, that, contrary to the interest of the king and queen, they proclaim king James. It is time to prevent these insolences. They drank king William's and queen Mary's *Damnation*. I believe the justices will not redress this. The Clergy are got into cabals, and they would not appear at the Proclamation. I believe the black coats, and the red coats, to be the grievances of the nation. I would willingly satisfy the poor people I represent.

Sir *Wm. Williams*. If you will consider the king's Speech, you have fair room to debate on Aid, and, what belongs to it, the quantity and consideration of the Revenue. War and peace we meddle not with; we are only to supply it. How far the Revenue was settled on the late king, whether all or part vested in him by law, is fit to be considered. If there be a defect, it may be supplied by act of parliament; it is not fit to leave these things in the dark. When that is done you may consider of Aids, without going upon it hastily. But to say, that time will not stay for it. I am as much for haste as any body, but to justify myself to my country, we cannot come at this matter without knowing whether you will continue the Revenue, or reverse all the last parliament did. I am for supporting the king, both at home and abroad, in what fairly may be done, and all these things come naturally out for the king and country.

Resolved, "That the house will to-morrow morning resolve itself into a Grand Committee to consider the king's Speech."

Debate on taking away the old Oaths of Allegiance, &c.] Leave was asked to bring in a Bill for taking away the Oaths of Allegiance and Supremacy, and to insert others, &c.

Mr. *Sacheverell*. I agree to the motion for this bill, to take away the Oaths of Allegiance and Supremacy, and in their stead to insert Oaths to this king and queen. And I would have the other Oaths in the Act for regulating Corporations taken away. You have the same power to alter those as you have these.

Sir *Rob. Howard*. I would not charge this bill with too many things; it will be long before you have the effect of it. The University, the Judges, and all other officers, require speedy dispatch, and in time that Act of Corporations may be taken away at one blow. That act had as much intrinsic iniquity as any act whatsoever. I would have an act to take away any obligation to take the Sacrament upon accepting any office; it is a profaning the Sacrament. When that act passed here, I remember it was moved by good Church of England men.

Sir *Henry Capel*. What belongs to the Oaths to the king and queen, &c. I would have in one act. I think it is well moved about the Corporation Oaths. I am glad to see men tender in oaths; the fewer in the government the better. The design formerly here was to bring the government into as few hands as they could, and to bring in Popery at the bottom of all. I would have no more oaths than are necessary to support the government. The Corporation Oath was to establish arbitrary power by law. The Revenue of corporations has been ill managed. I move that there may be leave to bring in such a bill. As for what relates to the Sacrament, every body knows my education has been for the Church of England, and I will live and die with it, but I would have the receiving the Sacrament, to qualify for those offices, cease. It was pressed at here by men of great abilities, and good churchmen were against it. Such use was made of it that people could not sell ale without it, and that holy thing was profaned. The Test will do very well without it, and I would have it removed.

Sir *Tho. Clarges*. If the Oath be taken away in the Corporation Act, 'that it is not lawful to resist the king,' it implies you may resist him. As for the Sacrament, &c. 'if you take away the whole act, take away that;' I think that unreasonable. The public profession of the Church of England enjoins, 'that the Sacrament be received at least once a year.' There is no example in the whole world where any are in office, and not of the public profession of the religion of that country. Men cannot be surprized, nor will there be any profaning the Sacrament, being obliged to receive it but once a year. I am not for taking away the whole Oath, but for having it explained.—Leave was given to bring in such a Bill.

Debate on the King's Revenue.] Feb. 26. The house went into a grand committee on the King's Speech.

Mr. *Eyre*. That we may be able to come to some resolution, I desire we may go on with the king's Speech, paragraph by paragraph.

Lord *Falkland*. We ought to take that first on which all the rest is founded. That upon settlements at home is the foundation of all the rest. Whatever is done in relation to Ireland, and abroad, Money must be thought of, and I propose that for consideration.

Sir *Tho. Clarges*. That is irregular, for it is not referred to you by the house to consider of, and therefore out of course, and Money is a tender matter. As I understand, the Speech points directly to the matter of Settlement, and the condition of Allies abroad and Holland [and so reads it], so the king here advises a good Settlement. And it seems to me this good Settlement is to change this Convention into a Parliament; so had not the wisdom of this house turned this Convention into

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a Parliament, you would have advised the king speedily to have called one; and as the king leaves it to your wisdom to consider what acts to propose, so now 'tis a proper time for a Settlement of your chief errand; therefore I would consider what foundation that may subsist upon; they are there but in the nature of projections. I shall not direct, but I think the purport of the king's Speech is to consider a Settlement most for the king's advantage and our good. And therefore I move it.

The Speaker resumed the Chair, upon occasion of some strangers being in the Gallery, and left it again *.

Mr. *Garroway.* We are invited by the king's Speech to make out a Settlement to secure ourselves, &c. We heard yesterday from the gentlemen of the long robe, that the revenue is not ceased by the demise of the king—If provision be not made against the disorder of the soldiers, 'tis not safe for us to sit here—How you will go about that I see not, till you know whether the Revenue be really settled in the crown; and then you will know what to trust to. If there be a doubt upon it, we must go some other way; but if you declare the Revenue settled, it may end all discourses.

Sir *Wm. Williams.* You are told of the long robe's discourses of the Revenue; if any doubt or question be put upon it, clear it. The measure of the matter before you must be the Revenue certain upon the crown, and you may measure by it. I take it from the acts of the last parliament, (made in great haste) which are very doubtful to me, and I would be cleared, and come speedily to a resolution, if it be a good Revenue, for the use of the prince: if not, declare it so.

Sir *Tho. Clarges.* I was with an honourable person discoursing of the Revenue, that I was not free to grant it for life. Learned men are of opinion, that all of the Revenue granted for life of the late king is to the benefit of this king *jure coronæ*. If it be so, I shall acquiesce in it, that the king may have it with honour for the support of the government.

Mr. *Pollexfen.* What opinion I was then of, I am now, and am ready to tell my reasons. If the Revenue goes not with the crown, where is it? Where the crown is gone, the Revenue is gone. It always goes where the public capacity goes: I never knew the contrary. 'But the Revenue' (it may be said) 'is granted to the king for life.' I would have the words of that Act read, [which was read] I will take it in the several parts of it: 'It does give and grant, &c.' and next, 'it shall be received by the king for life;' with reference to the former Acts. Now, whether this be in the king, &c. If I make a lease to the king for life, as long as he lives amongst men, 'tis a good lease, if a man enters into religion, or be attainted of treason—Suppose the king granted a Pension, or charged it, &c. for his life—If civilly dead, this never qualifies the first grant for natural life. Then next, whither must the Revenue go? Shall it go from the succession? Then this being granted to succession, it follows, the crown must have it, for maintenance of the state and government of the kingdom. This is the reason I give my opinion upon.

Sir *Wm. Pulteney.* Under favour, I think estates given to James 2 are expired and determined; he having abdicated the government, and thereby the throne become vacant. Whatever relates to James 2 is determined. I agree, if it be a lease for life of king James 2, it is not determined by his abdication, and that grant does not determine the grant over to another, if granted to a person for life, and he be attainted, or *civiliter mortuus.* But our case stands on another bottom, on a construction by act of parliament, which says, It shall be collected and paid, 'to the king during his life.' 'Tis our security, as well as support of the crown, to have the Revenue in our disposal; though I am not against granting it, yet I would have it from 3 years to 3 years, to secure us a parliament. At least it is a doubtful case. But king James has abdicated, and is no king, and there is an interregnum. How we can count this man alive, I know not. I am for settling it as you shall think fit.

Serjeant *Holt.* It is not the question concerning the expedience or convenience, but how this matter stands in point of law? Upon reading the Act, it carries a plain construction expressly; for king James 2 had it for life, and that king James is now living, which the house has declared, and that he has abdicated, &c. If that had not been, the Throne had not been vacant; and if king James be alive, the Revenue continues; and who must take it? The king takes it in his political capacity, which is not dead but remains. If king James be still alive, I see no reason that the Revenue is determined. If it be given to king James, 'tis a fee simple; if to his heirs and successors, 'tis otherwise; his natural and political capacity, his heirs and successors. Suppose tenant for life be attainted, the king has it for life of the person attainted, and his successor has it. Besides, not only his political capacity remains, but his trust for guarding the seas, and he is a person that can answer the end of the trust. I hope you will not say the king is dead as to the vacancy of the Throne, and alive as to the Revenue.

Mr. *Peyton Ventris* *. I should be loth the king's Revenue should depend upon doubt. Revenue given to the king is to his successors,

* "The house being informed, that there were in the Gallery, while the committee of the whole house was sitting, several persons that were not members of the house; Ordered, That the serjeant at arms, attending this house, do, from time to time, take into his custody any stranger, or strangers, that he shall see, or be informed to be in the house, or Gallery, while the house, or any committee of the whole house, is sitting." Journals.

* Soon after made a Judge.

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where the act runs, 'The king shall be paid it;' and 'only to the present king devoted;' it belongs not to his successors.

Sir *Rob. Sawyer.* There are three sorts of Revenue, some for life, and some for successors, &c. The only question is that for life, and admitted in his political capacity; but with limitation for his natural life, 'tis not so long as he shall continue king, but for his natural life. 'Tis argued 'that any grant to the king in his political capacity is now determined, that carries a trust with it.' Other gentlemen say 'this is but in the nature of an ordinary conveyance.' Now, who shall have this estate? If a man enters into Religion, it does not determine the estate, but the heir shall enter. If it be granted to the king in his political capacity, it goes with the king in present. 'Tis most plain the trust is for the public. I take the law to be, that those grants are construed in the common course of law.

Sir *John Guise.* What is given to the king, I conceive, is not as he is king, but for support of the nation, to take care of it. If so given, then 'tis not the king's going away who was to receive it, 'tis not come to be nothing, but is fallen upon the lords and commons—And no more is conveyed than granted; therefore I would declare it in the king.

Lord *Falkland.* Being settled on king James for life, you cannot do it for king William, during king James's life. You have declared the Throne vacant, and after it was so for some days. If the Revenue did cease when the Throne was vacant, I know not how it can be revived but by act of parliament. I would not have the Revenue doubtful, but clear it by act of parliament.

Sir *George Treby.* The long robe were pointed at even now, and I will deliver my opinion freely. I think it is mighty plain that this Crown is an hereditary crown. Richard 2 abdicated, and there was a vacancy. When the king dies, *nolens volens*, the crown descends to his successor; but when he abdicates the crown, the disposing of it comes to the lords and commons, and must be so accepted by the king. Lord Falkland is above the study of the law, but if he was conversant, he would know that if a Revenue is granted to John-a-Styles for life, though the king dies, if John-a-Styles is alive, that lease is not void. I have spoken of this variously, and was not determined in my thoughts till this morning, but now am of opinion that it rests in the life of king James 2. From the opinion of the last parliament, and this too, the Revenue is of inheritance of years and life. That upon which the question arises is that of the Customs, and half the Excise, given to the king, and limited to his life, in his corporeal capacity. What is meant by the king's Life? I think, not his reign, for it might have been as well expressed his reign, and as well now; but I think it is intended, during his natural life. If all the parliament were asked, when that grant passed, if they intended, that, as long as king James should live, it should return to the people,—they would say no. In those three sorts of Revenue it is expressed in the same words as this, for Life—'His majesty for life.' Is that for eight years determined? No. Which implies that it will go to his successor, notwithstanding his demise or abdication. It is as reasonable to construe this so too, and expound one part by another. Had it not been for this unfortunate change for James 2, (which I speak of with melancholy thoughts) you yourselves in effect have declared your mind as to this Revenue. When you desired the Prince of Orange to take upon him the administration of the government, you remember that gentleman who said, 'we were no Parliament,' said 'we wanted only a Declaration of it, but had not formality.' When the Prince of Orange was happily arrived, and the lords and commons were summoned, they advised the prince to take the administration of affairs upon him, civil and military, and the public Revenue. He put out a Declaration of the great disorder in collecting the Customs, and appointed Officers to receive and collect the same till the 22d of January, the time the Convention was to meet. Then you addressed him with Thanks for accepting the government, and desired him to continue the receiving the Revenue, &c. Which could have no other interpretation than what Revenue was then in being; and it is strange it should not be continued, and nothing of consent in parliament. Till king, lords, and commons are actually joined to the king, it is no parliament. If so, you declare William has done what James 2 did, and what you thought a Grievance. No man but concludes the uncertainty of the Revenue to the king for another man's life; and I need not labour the matter.

Sir *Tho. Clarges.* I do not labour this, but I offer only, that, if there be any doubt, you will put it past doubt.

Mr. *Howe.* One would have the Revenue during king James's life, and another during king William's; but I would make no such leases, but from time to time by parliament. I hope Westminster-Hall shall never decide our purses, what we are to give. I think king James did abdicate the Revenue; nay, that he did forfeit it to somebody's hands, and if we could give it, 'nemo dat quod non habet,' That the Crown is forfeited, and that the lords and commons offered it as a present to king William, and that they have a right to offer this Revenue as a present to him, is my opinion.

Mr. *Godolphin.* I am willing to divide with both opinions. I believe, that parliament that gave this Revenue, intended not to give it to king William; for there were no thoughts then of king James's abdication. If any doubt be in the house, it is in your power to put it out of doubt.

Sir *Jonathan Jennings.* It is highly necessary to come to an end of this debate. There have been many cases put, and I hope some come up to our case. We are told, 'some of

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the Revenue is for years, and some for life, and is in the present king as it was in king James.' If a patentee come and show you a grant for years, or life, before the Abdication, declared even before the king left the kingdom, shall not that stand good to the patentee? And then, where shall be the support of the Government? I hope this will be suddenly answered, as a weak suggestion, and that you will go on.

Sir *Wm. Williams.* What is given of this nature, is the gift of the commons only, and the crown is to take it as it is given. The people are the donors, the king is the donee. All agree it is in the crown as a trust. Be it either way, I propose 'that you will give it the king for three years.'

Sir *Rd. Temple.* You have had a long debate, and it is hard to know what to advise you in this case. You have heard the gentlemen of the long robe, who tell you 'the Revenue is still in being, and applicable to king William; but you must still declare it in king William by act of parliament;' meaning, should you do it by Vote alone, it will not be so satisfactory. The reasons offered do not take away all doubt. It is said, 'the Revenue is granted to the late king, but with limitations, for life:' I would know, whether his natural capacity, or political? His political capacity ceases, and you have impowered the Prince of Orange to reign; but where was it during the Vacancy, when one of the capacities is gone? I would have it explained. This being the case, king William will hold it upon mighty uncertainties, if during the life of king James: therefore, I would have a Bill brought in, to declare the Revenue as you shall think fit.

Col. *Birch.* It is very convenient that this matter be cleared. I perceive this is a doubt amongst learned gentlemen. I cannot think that this being given for king James's life, is intended longer than his reign, when he does not protect and defend you. Could it be intended, if you give it king William for life, if he cannot reign over us? No doubt it is a Revenue which fell into the same power and authority that the government fell into, which was lords and commons. Though king William be sufficiently indemnified by act of parliament, &c. and though you did think fit to give the kingship out of yourselves, you will bear me witness, I was one of the forwardest to part with it; and so I would do with the Revenue. But our greatest misery was, our giving it to king James for life, and not from three years to three years, and so you might have often kissed his hands here. I do not believe that king William would have it longer: perhaps persons would make it their interest to keep us asunder, but such a grant will keep us together.

Sir *George Treby.* This gentleman has commended us of the long robe for our learning. But as for his reason, 'that he has had kingship in him, and knows king William's mind;' he is too hard a match for me to deal with him. He says, 'the Revenue was to king James no longer than he should protect us, but given to king William because he does protect us.' But what if he subvert?—We should then give to one to redeem us.

Col. *Birch.* If king William should destroy the laws, foundations, and liberties, I doubt not but you will do with him as you did with king James. As to my knowing king William's mind, if it is his mind to have some for life, then, by chance, it is beyond the intention of this house.

Mr. *Finch.* The Revenue, without all manner of objection, is better for the nation than disputable, and that there should be a Revenue necessary to support the crown and you. The law allows no distinction of capacities in the king, as his political and natural capacity. It is an old mistake, as old as Edward 2's time; and you know what use the Spencers made of it: they ought not to be separated by law. It is said, in the act, 'during the king's life, which God long preserve;' as if to preserve his reign, and not his life. It is said, 'You have desired the king to collect the Revenue, till it shall be farther settled.' You will find, all along, the Revenue collected in the name of king James, collected and administered in his name: I think that no argument, to continue longer that political capacity. To give the king, for the safety and protection of the kingdom, in his political capacity, then you give to all the succession in political capacity. It is most proper to give such a Revenue; and I move, to give the king a Revenue to support the crown.

Mr. *Somers.* This case of the Revenue is of great consequence, and certainly it is manifestly a doubt. But I cannot agree that the natural and political capacity, &c. are not distinguished; because our laws do distinguish them. But I think an act of parliament much expounds them, when a Revenue is granted for the king's life. For increasing the king's Revenue, when you limit it, it is for life, and can be intended no longer than in the preamble of the act, which intends it for his reign; therefore settle it in the most solemn and perfect way. With a common person it ends with life; but a demise and abdication of the crown do extinguish his title to it. Settle it as you please.

Sir *Rob. Howard.* As it has been moved by the learned person, let us go upon certainty. You have said, that king James has abdicated the government, and you have disposed of the crown; I cannot apprehend how he abdicated the Crown, and not the Revenue. I deal freely with you; tallies are struck in king James's name, but I have prepared an instrument to the contrary. If you are not in a condition to dispose of the Revenue, how came it into your hands to dispose of the Crown? I think both are inseparable. Suppose he that has the crown retire into a monastery, and is incapable to govern, and a Revenue is given him for life, is his not the case of a private man? He is no longer a king. It

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is my opinion, that the Revenue of the crown is from the people, and the nation; as you have disposed of the one, you may dispose of the other; and so you may proceed to show how it shall be disposed of by act of parliament.

Sir *Christ. Musgrave.* If this question be carried in the negative, where is your Revenue, and how shall the kingdom subsist? People are not apt to part with Money, and your vote will not make law, and it is no more law by your vote: it must be by act of parliament; and the greatest security to the crown is, not to put that question, but to bring in a Bill.

Sir *Tho. Lee.* If we bring in a Bill, it must be a bill to grant a Revenue; and it is not to begin here, but from the whole house. It is most proper and natural to put the question, Whether the Revenue be in the king? and then the house to go into a grand committee. I have heard the gentlemen of the long robe with great attention; but one thing sticks with me: there is a great difference betwixt what was anciently, and now; formerly the crown subsisted by lands of its own, but now by what arises out of the subject.

Mr. *Pollerfen.* There are no rules of law to distinguish one sort of inheritance of the crown, and another. King James had the right in him, and his heirs and successors had it, and no distinction in law of his political and natural capacity. If an estate be granted for life to king James, there is no distinction and limitation of estates betwixt grants to the king and a private inheritance.

Sir *Henry Capel.* The rule we go by here is justice and truth. I would know if we have done justice to fill the throne with king William and queen Mary? Is it a prudent thing for us to say, that king James 2 is no king, and yet James 2 has a Revenue? I remember, on debates on the Exclusion-Bill, gentlemen that argued against it, alleged 'that there was no danger in the duke of York's coming to the crown; for, when the king dies, the Revenue ceases; and the parliament will take care of Religion, before they grant it.' We have seen that has been otherwise. When the king has abdicated the government, it is inconsistent with reason to think otherwise. I think this matter relates to Money, therefore it is proper to be in a committee of the whole house.

Sir *Rob. Howard.*' The question may have inconveniences; therefore resolve the house into a grand committee.

Resolved, "That this house will, to-morrow morning, resolve itself into a Grand Committee, to take into consideration the king's Revenue."

Feb. 27. The house resolved into a Grand Committee on the king's Revenue, Mr. Hampden in the chair.

Sir *Tho. Clarges.* I would do my duty to my country, as well as to the king, and expect from the king what I do not from others. I would have the monarch and the people in mutual confidence, or else there is no safety to either. I think we ought to be cautious of the Revenue, which is the life of the government, and consider the two last reigns. It seems, by the king's Declaration, we are out of danger of falling into the misfortunes of the two last governments. If you give this Revenue for three years, you will be secure of a parliament. I doubt not the people of England, when they meet here, and have good execution of their laws, and are in security and safety; it is an unreasonable supposition, that the people will not aid him according to his occasions. And I move, 'that the Revenue may be settled for three years.'

Sir *Rob. Sawyer.* I believe sir Rob. Howard can give you an account of the yearly value of the Revenue.

Sir *Tho. Clarges.* When you have overcome this, I would have it determined, whether the temporary part of the Excise and the Customs are in being, before you proceed to any farther matters.

Mr. *Love.* I find there will be occasion of discourses, what the Revenue is? Therefore I move, that Howard may give you the Revenue. When all is before you, you may consent to such a Revenue as may make the king great to all the world.

Sir *John Lowther.* I shall be sorry, in the motion I shall make, to be an instrument to lose the good correspondence betwixt the king and you. We are not secure from danger; and I believe you will not lessen your reputation abroad, by having an entire confidence in him, and being perfectly united in interest and affection. The States of Holland are now engaged against the mighty power of France; and, I believe, you would not have the reputation of the king lessened in that court. The king of France has 200,000 men, has equipped many ships, is preparing to assist king James in Ireland, and has great correspondence in Scotland. The duke of Gordon is in possession of Edinburgh castle, and it is thought will make king James a passage into Scotland by Ireland. The French king is upon his march with 80,000 men into Flanders, with design upon Holland. I know not what can resist him, unless that little State, by the blessing of God, can do it. This is the state of affairs abroad: the Army is discontented at home. All this considered, I would have gentlemen consider, whether it is not necessary that there should be confidence in the king. I doubt not but the king will call parliaments often. If I had thought him a man of that temper as not to call parliaments, I should never have ventured my life and fortune for him; and if he would not have continued to support the Protestant Religion. If these considerations move with you, I shall be glad of it; if not, I shall comply with any other motion.

Sir *Edw Seymour.* You have had a representation of the difficulties you are under. Arguments are not much altered from former times to make us unanimous in assisting the king; but now they serve for another turn.

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What you settle on the crown, I would have so well done as to support the crown, and not carry it to excess. We may date our misery from our bounty here. If king Charles 2 had not had that bounty from you, he had never attempted what he had done. In his time, it was only, ask and have, carried on to that attempt as to hazard our ruin. Now we have a monarch, we must support him. I was sorry to hear what I didy esterday (from Birch), as if the king was like a single person, to call him to account when we will, and that we should so soon change our respect to him. If we settle the Revenue, I would enquire into it; if you know not the value of what is given, you cannot do it effectually. There is great need of Money, and when you know the particulars of the Revenue, you may better consider of it, and not go away with names, but do things. Before you make any settled resolutions, enquire into it; and, if possible, that the whole Revenue granted may be at one time certain, and not a part temporary. To enquire into the Revenue is your best method.

Sir *Francis Drake.* We are told of former excess of giving Money: I was never for it, because it was against the interest of the nation, to stab our Religion and Laws. I thank God, we are delivered from these men: now we are under a prince who has deserved well of the nation in delivering us, and I would give him the best acknowledgment we can, but not to prejudice the people. The same reasons for not giving formerly make me for it now, for our prince to support the honour of the nation. It is proposed, 'that you calculate what is necessary to support the honour and dignity of the crown.' I believe you will have an account given in a short time. I would appoint to-morrow for it.

Sir *Robert Howard.* I wish I could give the house satisfaction concerning the Revenue now. What was said is very true, that heat of loyalty was carried on formerly to excess, but there is not that argument to carry us on now. If the religion of the one and the other were the same, then be careful of excess; but coldness now will have more fatal effects. The question now is, Whether you will grant the Revenue for life, or years? I have heard the argument for granting it only for three years, but to secure Parliaments. I will lay little argument upon the stress of a Protestant king, and no danger of religion. I never will speak against a Triennial Parliament. When a Popish king has received such testimony of kindness from the parliament as to have the Revenue for life, if a prince, come in to save your Religion and Laws, should not have the same confidence, it will be thought a great coldness. It will be a matter of great rejoicing beyond sea, if we come up with more chearfulness to that king who would have imposed upon you what this king has delivered you from. It may give encouragement to your enemies. Here are great dislikes, of a sad and cloudy nature; this may extend to cloud mens minds, and extend to Elections of Parliament-men, for the future. Perhaps arguments of so short a term as three years may give encouragement to your enemies, when it is said that all must depend on the condition of the Revenue: you yourselves, when you shall see the condition of the Revenue, may more easily settle your thoughts, what you will do for three years, or longer.

Mr. *Eyre.* I move, that the Debts of the Crown may be brought in, with the Charges upon the Revenue.

Sir *Robert Clayton.* I am afraid that will not do your business. I apprehend that there may be legal Charges on the Revenue, as the Bankers Debt, and other legal Charges; and if the Courts of Justice do well, they will recover it on the king.

Mr. *Garroway.* The Bankers Debt is named: I believe it is upon that part of the Excise which legally ought not to be charged: there are solicitors at the door in this business already.

Sir *Tho. Clarges.* Since the Bankers Debt is named, when you come to look into the Revenue, you will see whether the Bankers Debt be legally due, and which ought to be paid. The case will be, whether the Crown has power to sell all the Revenue, not settled by parliament. You must pay for what you buy, and yet come to the lord Treasurer for it. I was of that Jury, when 80,000*l.* a year was bought valuably, and the officers of the Exchequer robbed them of it.

Sir *Henry Capel.* For fear of the Bankers, I would not neglect the security of the kingdom: but if it be charged upon a branch of the Revenue, which it ought not to be, it is no Debt.

Sir *Robert Howard.* I had the honour to be one of the members appointed to examine Coleman, who said, 'that a considerable sum was to be given to secure the Bankers Debt; and if it was thought good then, what need of security?

Sir *Tho. Lee.* I know not how this debate of the Bankers comes regularly before you. I am not versed in the rules of the Exchequer, and less in law; but I had it from lord Clifford, 'that, if the Bankers lent the king 100*l.* it was at 10 per cent.' They could not advance Money. Tickets cost 2*s.* 6*d.* a-piece, and so, upon reckonings, they made the king pay 50 per cent.

Mr. *Boscawen.* The Bankers agreed with Coleman for such a sum of money. A great deal of money was lent to king Ch. 2, on credit, in lord Clifford's time; and the shutting up the Exchequer was looked upon as the greatest invasion of property. It was to make war with Holland; and, without that illegal way, they could never have got Money to make war. I would have it brought in; if legal, it may be thought of; if illegal, made void.

Mr. *Pollexfen.* I am of the mind of the gentleman, to give the king that which may not deceive him, and in him, ourselves. I would have the whole Debt and Charge brought in.

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Mr. Sacheverell. I have known this of the Bankers formerly. If you look upon it as a Debt from the beginning, and examine the accounts, it may probably last you till Midsummer. There was great solicitation in the house then, and some say foul. It was urged then, 'if you can prove a just Debt, will you come to account of the Money you lent; and will you be content to stand by it, and fall by that account? Then said I, 'what reason have you to expect more privilege than all the other subjects of England, and there is no reason to look into it.' Was it examined, it would be found, that the king was so far from being debtor to them, that they would be debtors to him.

Mr. Garroway. When the king, that now is, was here as prince of Orange, I walked with him; and, discoursing of the Bankers, I told him, they might have had all their Debt paid, would they have discounted at 7 per cent.

The rest of this day's debate was spent in several Proposals for raising Money. And it was agreed, "That 420,000*l.* should be given his majesty by a Monthly Assessment:" which was the next day agreed to by the house.*

Resolution to stand by the King, &c.] This day, his majesty by Message acquainted the house, "That the late king James was sailed with French troops from Brest, in order to land in Ireland." Upon which it was resolved nem. con. "That the house will stand by, and assist the king with their Lives and Fortunes, in supporting his Alliances abroad, in reducing of Ireland, and in Defence of the Protestant Religion and Laws of the Kingdom." To which, the next day, they desired the concurrence of the Lords; and afterwards presented to his majesty in the form of an Address.

State of the Revenue delivered in by Sir R. Howard.] March 1. Sir Rob. Howard reported that, according to the Order of this house, for bringing in the yearly value of the several branches of the Revenue, he had prepared a Computation thereof, as follows:

A Computation of the several Branches of the Revenue.

The Old Customs made in the	£.	s.	d.
year 1685 - - - - - -	532,143	9	6½
1686 - - - - - -	595,688	7	10½
1687 - - - - - -	630,700	15	0½
1688 - - - - - -	551,497	18	11½

* "The most salutary change in the constitution of England at the Revolution, was effected by the regulations which the commons adopted with respect to the state and management of the Public Revenue. The connexion between the Public Revenue and the temper of government, must appear an important and instructive fact, to every one who carefully peruses the history of England. Though, at an early period, the kings of England possessed a large independent Revenue, arising from patrimonial demesnes, taxations, and servitudes, yet these were far from being adequate to the extraordinary expences which occurred almost in every reign. The prodigality of a court, internal convulsions, and foreign war, had often compelled the prince to own his dependence, and solicit the bounty of his subjects. The solicitations of the prince reminded the people of their own importance. Their discontents, hitherto propagated in timid whispers, assumed the bold strain of Complaint and Remonstrance, and dared to approach the throne of the suppliant monarch. Hence the Redress of Grievances came to be the stated price of liberality to the prince, and the people wisely calculated, that any inconvenience, arising from the present diminution of their property, was abundantly compensated, by their obtaining such laws and regulations as contributed to its future security and increase.—Recent experience recommended the utmost caution in the disposal of the Revenue. The depression of their own influence, the open violation of the laws, an accumulation of Grievances, against which they had not an opportunity to remonstrate while parliaments were laid aside, were mortifying evidences of the pernicious effects of their rash and irrevocable generosity to the late prince. 'We may date our misery to our bounty,' said a member of the house of commons. 'If king Charles had not had that bounty from you, he never would have attempted the things he has done.' 'I remember,' said another, 'when above 100,000*l.* was given for building of ships, and not one was built; and above 200,000*l.* granted to support the Triple League, was employed for breaking it.'—The reformation of the Revenue, from these considerations, appeared the capital point to which the attention of every true patriot ought to be directed; and which, if it was once compassed, would ensure the redress of every remaining Grievance, and the progressive improvement of the constitution. The most perfect political sagacity could not foresee what abuses or grievances might arise at any future period, but these could be only transient, if the Revenue was subjected to such periodical expirations, as must necessarily render the prince dependent upon the gratitude and generosity of his people. As the foundation of this system, it became expedient that the Convention should explain the precise extent of the generosity they had already exercised towards the king, by putting the crown upon his head. Some of his majesty's friends were of opinion, that the Act of Settlement conveyed the full possession and uncontrolled disposal of the Revenue annexed to the crown, at the period of king James's abdication; and it was natural to suppose, that the king himself listened with partiality to this opinion. When it was moved in the house of commons, that the Revenue had expired with the abdication of king James, great address was used to treat the question as a point of law, and to exclude those arguments of expediency, which could

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The medium of the 4 years is	577,507	12	10¼
The Duties, late in the Wood Farm, Coal Farm, and Salt Farm, and the Grant of the French Tonnage, all newly expired - - - -	19,500	0	0
The Four and half per Cent. Rent of the Logwood Farm, and Seizures of uncustomed and prohibited goods - - - - - -	12,119	4	4
£.	609,126	17	2¼

The Excise made, in the year 1685 - - - - - -	567,064	12	7½
1686 - - - - - -	581,664	4	8½
1687 - - - - - -	623,891	1	7½
1688 - - - - - -	636,358	12	8½
The medium of the 4 yrs is	610,486	10	9
The Hearth-Money, per ann. about - - - - - -	200,000	0	0
The Post-Office, per ann. about - - - - - -	55,000	0	0
The Small Branches, per ann. about - - - - -	26,350	15	5½
Total - £.	1,500,964	3	4¾

not fail to incline many of the members to approve of the motion, if it had been fairly open to discussion. Those persons contended, that the Revenue which had been conferred upon the late king, became the inherent right of the crown, and attached to his successor, without any new interference, or confirmation by parliament. Others, who professed an equal respect to the authority of law, advanced an opinion which rendered the royal income precarious, but not in the same degree dependent as if it had now expired, or been bestowed for a short or definite period. They maintained, that the Revenue was subjected to the same regulations with private property; that having been granted to James, for the purpose of governing during his life, it could not be alienated from that purpose, or follow him after he had deserted his public trust; but that, while he lived, it belonged to the person substituted in his official state. Upon the event of the death of James, they acknowledged that the Revenue would revert to the commons, and might then be regulated, both with respect to quantity and duration, as the circumstances and interests of the nation required.—The motives for dissenting from these opinions did not arise, merely, from the apprehension of distant or imaginary abuses of a Revenue exempted from the controul of the people. An inquiry, instituted by the commons into the state of the revenue, and abuses in the Expenditure of public money, led to discoveries which left it no longer doubtful, from what sources the former oppressions of the nation had flowed; and demonstrated the necessity of the most cautious and restricted modifications of the

The New Imposition granted in the late King James the Second's Time.

	£.	s.	d.
Wine and Vinegar for Eight Years produced, from Michaelmas 87,* to Michaelmas 88 - - - -	172,901	10	8¾
Remained to come, 4 Years, Half, from Christmas last, ending June 24, 1693.			
Tobacco and Sugar, for the same time, produced, in the same year - - - -	148,861	8	0
French Linen, Brandy, Silks, &c. for 5 Years, produced, in the said Year - - -	93,710	8	1½
Remained to come, 1 Year, Half, the 1st of Jan. last.			

Memorandum, These two last Branches are charged with the Loan of 81,888*l.* 6*s.* 9*d.* with Interest; which is to be paid in the course of the Register, as it comes in.

King's Message relative to the Hearth-Money.] Mr. Comptroller Wharton acquainted the house, that he had a Message from his majesty, in writing, which was as follows:

"W. R. His majesty, having been informed, that the Revenue of the Hearth-Money is very grievous to the people, is therefore willing to agree, either to a regulation of it, or to the taking of it wholly away, as this house shall think most convenient: and, as, in this, his majesty doth consider the ease of the subject, so he doth not doubt, but you will be careful of the support of the crown."

Supplies. Immense sums of the public money had been wasted in the prosecution of grievous suits, in behalf of the crown against the subject: 47,884*l.* had been paid by the privy seal to Burton and Graham, who had been employed as agents for the crown in these infamous suits: 100,000*l.* had been placed to the article of Secret Services, in the course of the last ten years, a period in which the nation had enjoyed uninterrupted peace. After various debates, the commons found that the revenue had expired; and afterwards agreed, that 420,000*l.* should be given to his majesty, by a Monthly Assessment, to supply the present exigencies of government.—The merit of this important Resolution, and the subsequent regulations of separating the Civil List from the extraordinary demands of government, of appropriating the Supplies, and of reviewing the application of them, are to be ascribed principally to the Whigs. The Tories boasted of their opposition to these Resolutions, in order to supplant their antagonists; and to insinuate themselves into the good graces of the king. William was deeply mortified with the dependence to which he was subjected, and his affections began to be estranged from a party, who appeared to have laid down a plan, to revoke or impair that dignity which their own hands had created." Somerville.

* "Eighty-seven" should be "Eighty-five."

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Debate thereon.] Mr. Comptroller *Wharton.* I cannot but say, this is the greatest honour the king can do me, to make me a messenger of this. I have seen Messages for Money, but it is the first I ever heard of this kind, for the king to part with a Revenue. I am to acquaint you farther, a little more fully than in this Paper, viz. that the king was the first that moved this in Council. He did it for the ease of the people, and would always do so: he, and only he, is to have the honour of it.

Sir *Rob. Howard.* It was very late, when no body expected any such thing, that the king made this motion in council: the king said, 'It was much in his thoughts:' I could wish the house had heard his discourse of all this business; and in all his discourse from Exeter hither, he expressed his inclination to do good to the people.

Sir *Tho. Clarges.* I move, that both houses would join in an Address to the king, with their humble sense and Thanks; and I would have it the Declaration of the whole nation.

Sir *Tho. Littleton.* We cannot but have a great sense of this gracious condescension of his majesty; perhaps the most grateful and the greatest grace that has been done by any king formerly. And as this is a great favour from his majesty, so I hope we shall take care, in due time, that his majesty may be no loser.

Col. *Birch.* I stand up to second not only our hearty Thanks, with the concurrence of the lords, but this being such a Revenue that we were in no hopes ever to have an end of it, I would also signify this extraordinary favour to the nation, and give the king an extraordinary compensation.

Sir *Tho. Lee.* I move to have an addition to the Thanks, &c. 'That the king need not doubt of the affections of his people, to supply his occasions from time to time.'

Mr. *Hampden.* First resolve on Thanks, and then you may add as has been moved; but not to join the lords in any thing relating to Aid the king by way of compensation. You may appoint a committee to draw up the Address.—A Committee was appointed accordingly.

King's Message on committing several Persons.] Mr. Hampden, one of his majesty's priy council, acquainted the house, that he had a Message from his majesty, viz.

"That his majesty hath had credible information, that there are several persons in and about this town, that keep private Meetings and Cabals, to conspire against the Government, and for the assistance of the late king James: That his majesty has caused some of those persons to be already apprehended and secured, upon suspicion of High Treason; and that, he thinks, he may see cause to do so by others, within a little time: but that his majesty is between two great difficulties in this case; for that, if he should set those persons at liberty, that are apprehended, he would be wanting to his own safety, and the safety of his government and people: on the other hand, if he should detain them, he is unwilling to do any thing, but what shall be fully warranted by law, which he has so often declared he will preserve: and that therefore, if those persons should deliver themselves by the act of Habeas Corpus, there would be another difficulty. That his majesty is likewise unwilling; that excessive Bail should be taken in this case; his majesty remembering that to be one Article of the Grievances presented to him: that ordinary Bail will not be sufficient; for men who carry on such designs, in hopes of succeeding will not stick at forfeiting a small sum: and that, this falling out when the parliament is sitting, his majesty therefore thought fit to ask the Advice of this house thereon; and intends to advise with the lords also."

Debate thereon.] Mr. *Garroway.* This Message requires your Advice. I conceive, the king is under some pressure by the law; he does consider your safety, without violating the law; our business is to take off all hardships from the king, and to take the burden upon ourselves. It is not unknown, at least some are suspected to be tampering, and the king has found out some, and by this he may proceed to the remainder. In this, we must consult the learned in the law, to offer their opinions upon the present sense of things, and to beseech the king that no present proceedings may be against these men, but to take some little time to consider of it.

Sir *Thomas Littleton.* It is of great consequence, what Advice the lords and commons shall give in this. In the mean time, I desire the king may make no proceeding against these men; and I would add Thanks to the king for asking your Advice; a thing not very usual in this place.

Col. *Birch.* I second that motion. These are new things; and the king having thus freely delivered us from that badge of slavery, the Chimney-money, (by which a Freeholder was not left in England) I second the motion, that such Thanks, and special Thanks, may be given him on this occasion.

Mr. *Bescawen.* We are not only to consider these persons secured at present, but such as may be upon the same occasion. It is not unknown, that many soldiers disbanded, or who have disbanded themselves, have arms in their hands. I have letters, that the soldiers in Cornwall are as bad as the rest; and when the magistrates rejoiced at the happy change, the soldiers killed a man. I would consider some regulation or discipline of the soldiers, and not to have them proceeded against in Westminster-hall, and to make some temporary provision for the safety of the Government. There is a kingdom near us, where these soldiers may go without ships (Scotland). I would take some effectual course. I have laid the thing before you.

*****. The matter before you requires no long time of consideration; the king has sent for your Advice, and he knows well enough how the law stands, which ought to be

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inviolable, and I am always for keeping it. Therefore I would make immediate application to the king, to take up such persons as he shall suspect to be obnoxious; likewise I would have a short Bill, for two or three months, to enable the king to commit such persons as he shall have cause to suspect, without the benefit of Habeas Corpus.

Sir *Thomas Clarges.* A thing of so extraordinary a nature as this, requires time to consider of it. I cannot consent to this Bill. It is said, 'these men may escape when bailed;' must we therefore intrench upon the Habeas Corpus act? I would rather advise, that great security may be taken of them to appear, than that that Bill should be intrenched upon; a thing so sacred! The other motion, about the disorders of the soldiers, seems to touch upon martial law. If they do any violences, the law is sufficient already; but if martial law be necessary, let it be by way of trial by juries. But I cannot abide martial law.

Sir *Henry Capel.* This matter is for the house, and not Advice proper for the privy council. It is the duty of every person about the king, to advise him to take the opinion of this house. Pray let there be no discouragement in the thing, the king asking your Advice so graciously. This thing is not slight; it is weighty, and a great deal is at the bottom. 'That the king would continue his care, and to thank the king for it,' was Clarges's motion, which I second.

Sir *Rob. Sawyer.* I take the act of Habeas Corpus to be the general security of all subjects. It is not to be understood, that that law will be shaken when you are gone, but to continue no longer than for the persons already taken, and at present in pursuit.

Sir *Rd. Temple.* It is happy we have such a king, that is tender of our laws and liberties, and that will advise with his Great Council. I fear, those things offered you tend to more violation of that law than a Bill. The taking extraordinary Bail was as much a violation of your liberties as any, in the late king's time; and there is no way but to provide a short law for it. If you advise the king to detain these persons, and no more, what needed the king to have had resort to you in this case? You can advise nothing else, but what will shake the Habeas Corpus act. If it be required, in three days time they are to have their Habeas Corpus. Since the king has had recourse to us for Advice, let us give him none against law. You may advise the king, that there be no proceedings, to deliver them, till you provide a law; and that, in the mean time, he may go on to apprehend them.

Mr. *Hampden.* Some of the persons apprehended are sent to the Tower; and the king does not think that a Habeas Corpus does not lie there, and therefore sends you this Message. Lord Arran (who is committed) had not been taken, but that he fled in the disguise of a footman's habit, and was stopped by a centry without order. I am of opinion, before you send up your Address, to have a vote for a Bill for the king to commit, without benefit of Habeas Corpus, for three months.

Mr. *Sacheverell.* The Message sent you is too weighty to determine on a sudden; but thus far you may go, to advise him to secure those he suspects. I cannot consent to go any farther, nor consent, on every great occasion, to dispense with that Act, and at last to take it quite away; but to secure those whom the king does suspect, or has cause to suspect at present.

Sir *Wm. Pulteney.* Suppose persons come to a judge for a Habeas Corpus, what shall the judge do in this case? To say, 'that the house of commons have advised the king otherwise,' shall that supersede the judge's proceedings? So that necessarily you must have recourse to the legislative power, and leave the matter stronger than before.

Mr. *Finch.* This is a matter of great consequence: it is of absolute necessity, that those persons be secured for tampering with the government, and of as absolute necessity, that the law be secured too. There is no danger that persons should be delivered by Habeas Corpus; for as there are no judges yet appointed, they can have no writs, and so no necessity of bailing them immediately. If they cannot be immediately delivered, and may be secured, the king can do that without your Advice. But the question is, What to do with the persons attached, seeing they cannot immediately be delivered? I think it fit to thank the king for his Message and to adjourn the debate.

Sir *Christ. Musgrave.* I speak to the question, for the committee to draw up an Address of Thanks to his majesty, &c. I find gentlemen of various opinions. I am for Thanks, and would have that question single, else I know not how to give my Vote: I would have Thanks to the king for his gracious condescension in asking our Advice.

Resolved, "That the humble Thanks of this house be returned to his majesty for his most gracious Message, in desiring the Advice of this house."

Debate on the Bill for suspending the Habeas Corpus Act.] Lord *Falkland.* This Message from the king is of great consequence; and I am not for giving single Advice, but to give as much as we can. There is great cause to apprehend danger from caballing, and the old Army is discontented. Detaining these already apprehended, or that he shall have cause to suspect, I think we may advise without encroachment upon the law.

Sir *Robert Clayton.* When you have taken these people, how will you hold them in prison? Had it not been for the Habeas Corpus act, there had not been many of us here now; we had been dead and rotten in prison. I would have the debate deferred. When the legislative power and the executive are far asunder, it might be difficult, but they are together. I would have this a temporary Bill for

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a short time, and not to be drawn into example.

Sir *Tho. Clarges.* I am for that motion for the king to apprehend suspected persons: till you give your Advice, the king may do it without you. I would have such advice given, as may consist with the gravity of this house. As for to-morrow, though the Tests, &c. are to be taken; there is no danger in taking them after to-morrow: I would have that understood that you have no restraint upon you that may put it off. As to this suspending the Habeas Corpus bill, at present I am under great restraints in judgment, therefore I would have it duly debated, and, it may be, I shall be for a temporary Act.

Sir *John Lowther.* I think you are told by the learned persons 'that it is no question, but the king may secure these suspected persons, and it is in his power, and supposed to be his duty, and the proper administration of the crown.' I am not against adjourning the debate till to-morrow, but I would not increase jealousies in people, that you will not take the Tests. Those who advised the king to desire a temporary Act seem rather to confirm the Habeas Corpus act, than to weaken it. When you exercise the legislative authority in this emergency, it is no invading your law, but very necessary at present.

Mr. *Hampden.* The difficulty the king is in, is not to apprehend these persons, but what to do with them. Your Advice is desired, and what he should do in this difficulty. I think the king may legally commit and do no man wrong. He asks your advice, and I think it is no encroachment on the Habeas Corpus act. No man took more pains in it, nor values it more than I do. These men will go on conspiring, and gentlemen say, to-morrow is appointed for taking the Oaths and Tests. Those gentlemen that refuse taking the Oaths and Tests, will sit very uneasily here. But if you gravely deliberate, and at the same time delay swearing Allegiance to the king, as though you intend no haste, consider what will be said abroad. Therefore I move for a temporary Act to dispense with the Habeas Corpus.

Sir *Tho. Clarges.* I stand up to vindicate myself: I am as free as any body to take these Oaths. I desire to justify myself.

Ordered, "That a committee be appointed to draw up a temporary Bill, for impowering his majesty to apprehend and detain all such persons, as he shall have just cause to suspect are conspiring against the Government."—The bill was brought in, read the first and second time, and ordered to be committed.

March 4. Sir *Edw. Seymour.* I apprehend, nothing but the last necessity will cause you to part with the Habeas Corpus Act; the same example for others may be for the future to do it. In what I say, I move for privilege of parliament; I would not have that suspicion extend to members of parliament. I think it reasonable, when you provide for the security of the public to provide for your own. I would have no members taken upon suspicion of practising against the government; but when they shall be first adjudged criminal here.

Sir *Wm. Williams.* Consider the quick flight this Bill has made here; it was voted, brought in, and committed all in one day. As you have overruled your own Order, so I must not wonder at irregularities, but I hope you will be tender in it for the future.

Sir *Edw. Seymour.* I spoke it now; if I am irregular, it is because I am going into the country with your leave, and shall not have opportunity to do it.

Sir *Tho. Lee.* I think the motion not irregular, for many more Reasons, for re-commitment; for if the Bill be once brought in, in parchment, at the last reading it must be laid aside if it cannot be mended at the table. I know it is a thing of great consequence for members to be taken out of this house. But the ancient right, in the case of the five Members in 1640, was, that the cause of accusations must be showed in parliament, and ought to be so, as well in accusation of treason, as suspicion of treason.

Sir *Wm. Williams.* There is no privilege to any member in case of treason—that care may be taken in the ingrossment.

Sir *Rd. Temple.* No privilege to a member, &c. A member may be accused untruly, for the cause and matter ought to be true. For misdemeanor, or breach of the peace, a member is not to be tried in time of parliament. It was the case of lord Devonshire, and lord Lovelace. They pleaded they ought not to be tried in time of parliament though the misdemeanor was great, and done in the court.

Sir *Tho. Clarges.* The Charge of the five Members was undoubtedly treason, but to be taken out of the house was a breach of privilege, and afterwards owned and disclaimed by king Ch. 1, to be a rash attempt. A man may make a motion for a Bill, in a thing unforeseen, and if it cannot be well done at the table, you may re-commit the Bill. I move therefore, that some few gentlemen may draw a Clause. You run the utmost hazard by bringing in a rider, which cannot be mended at the table, and so the thing may be utterly lost.

Sir *Rob. Howard.* A thing of so ordinary and plain a nature as this may be brought in parchment, and pray put an end to this thing.

Sir *Tho. Lee.* If you think this Proviso necessary, three words do it, viz. 'Provided that it does not extend to privilege of parliament,' and I hope you intend it to those members that do not attend in parliament, and are absent, [reflecting upon Seymour who had leave to go into the country.]

An Amendment was proposed, That that present Act shall continue till the 17th of April, and no longer, and agreed to. But a second in these words, "and is never to be "drawn into precedent or example hereafter," was rejected.—A Clause was then offered by

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way of Addition to the said Bill, which provided, That the Expences and Fees of all persons so committed, should be defrayed by the public: which was likewise over-ruled.—After which a Proviso being first inserted, That the said Act should not any way affect the privileges of parliament, or persons of the Members, till the matter of suspicion be first communicated to the house; the Bill was passed.

Report from the Committee of Grievances.] March 5. Sir Joseph Tredenham reported from the Committee of Grievances, as follows: "Resolved, 1. That it is the opinion of this committee, That the Rights of the city of London, in the Election of Sheriffs in the year 1682, were invaded, and that such invasion was illegal, and a Grievance. 2. That the Judgment given upon the Quo Warranto, against the city of London, is a Grievance. 3. That the late Prosecutions of Quo Warranto's against the other cities, two universities, the towns-corporate, boroughs, cinque-ports, and plantations, and the Judgments thereon, and the Surrender of Charters, to the violation of their antient Rights, are illegal, and Grievances. 4. That the Commissions and Instructions for regulating Corporations, and putting Tests in order to electing Members for Parliament, are illegal, and Grievances. 5. That the promising of Votes to take off the penal Laws, and Tests, is a violation of the Rights of Parliament, and a Grievance. 6. That the Collecting the Customs, and part of the Excise, between the death of king Ch. 2, when these Duties were determined; and the parliament that was called afterwards, was illegal, and a Grievance. 7. That the levying of Money, otherwise than the law allows, and the disarming of Protestants, and the quartering of Soldiers, the pressing of Horses and Carriages, contrary to law, are Grievances. 8. That the house be moved to appoint a particular Committee, to examine into the matters aforesaid, and who were the authors and advisers thereof."—To all which the house agreed, and a Committee was appointed accordingly.

Debate on Grievances.] Sir *Rob. Howard.* You have received a Report from the Committee in general: I would have some use of it, though it is *actum agere*, to do it over again. We have a great example of the king; instead of those indirect means used formerly to get money, he has given you money. He has been so far from breaking your laws, that he has not so much as bowed them. I will wind all up in one motion, to incite every member to close with it. I find all the Answers from Burton and Graham, relating to the blood spilt by their Prosecution, that of the sheriffs of London, &c. 'that they were but ministerial in them;' they ought to be made an example, if they have a mind to gratify themselves by that, to make them originals, and a Bill of Attainder to be brought against them. Let us free ourselves from the guilt of that blood spilt, to all posterity, and not leave ill ministers, by these examples, to do the same again. It is impossible we should live, and not have blood upon us, if we pass this by unpunished. The next is the murdering our Civil Rights in Corporations, in taking away Charters, &c. If we do not punish these things, corruption still remains encouraged, and we shall cause this to descend to posterity. If the fault be in the Jury, and they will not tell us who gave the counsels, they must take it upon themselves. To proceed upon some actings in this, I would have a Select Committee. Let it go to what fountain it will, were my own father concerned. Not but that I would have a Committee of Grievances to sit, but you may have a Select Committee to sit upon Grievances, and you will find the parties and originals, or these men must make themselves murderers of these men, and murderers of our Liberties. 'No calamity so great (says lord Coke) as what is done under colour of justice.'

Mr. *Howe.* These men are known to the boys in the streets. The delay of this may put the people upon great discontents. Suppose a tradesman dies, as a shoemaker, and another comes to take the house, and finds awls and lasts in the house, shall I believe a painter lived in the house? I would have these awls and lasts thrown out of the house. I would have a Select Committee, to enquire into this, and then I hope you will have a good account of this, and let the tools be thrown away.

Sir *Tho. Clarges.* There are a great many Grievances more than this, as the illegal Ecclesiastical Commission; dispensing with the Oaths, &c. to the overthrow of all our laws; money levied by a charter upon Hackney Coaches; if that be so, you will be tript out of all your rights quickly. I wish the Committee, after the discovery of all these Grievances, would have named the persons who had occasioned them. Had they brought you in the persons who had offended, you might then have done something. I could wish these Grievances might be re-committed, and so consider farther of them, and find out the persons who occasioned them.

Sir *Rob. Clayton.* I would not hunt too many hares at once. If you take too many things, you will finish none. All we could get from Burton and Graham was, 'that they had their direction from the Attorney General,' and there is the end of the thread. Pray enquire of the Attorney General.

Sir *Edw. Seymour.* I am of opinion with Clarges, that all the Grievances of this nation are not in the Committee's Report. We have great obligation to the king, who has relieved us from the oppression of Chimney Money: but if I be not misinformed, we owe that to the lower end, and not to the higher end, of the council-table. If these men act again, who have countenanced these things, no body will be afraid to offend. When you have voted the Grievances, you may, by a private committee, find out the persons. Punishment of vice is as necessary as reward to virtue.

Mr. *Love.* I am of opinion, that finding

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out mischiefs will do no good, without remedying them. The two first Heads of the Bill relate to the City of London. If you refer this till you have done all, you will never be at an end; it will find you work for a great while.

Sir *Tho. Lee.* No ordinary treason is more dangerous than the practice of these men. I would have the Committee meet and examine their several practices, and then you may go to the lords for committing them, as a court, by the complaint of the commons; else that court cannot commit originally. A learned lawyer (Maynard) has declared, that you are to proceed so in common-law treasons.

Major *Wildman.* I would consider whether this be practicable immediately. Possibly they may demand Habeas Corpus before night. There are 30 in number committed, and most without any law, and committed by no authority in law. It is notorious that they have broken privileges of parliament, by taking away Corporation Charters, by engaging Subscriptions to elect such as the king shall nominate, to overthrow the very foundations of parliaments. The way proposed by Lee I think the best. But whether you will commit them for breach of privilege of parliament. You are told of a great sum of money that has gone through their hands. I would have them in your power, for they have been guilty of the greatest subversion of the laws that ever was.

Sir *Tho. Clarges.* I will agree that Burton and Graham are guilty of great offences, but whether you will determine this breach of privilege without hearing them? There is nothing expressed in the warrant of commitment of the cause of their commitment, and I think there is no danger from the lords commissioners, who have three days to consider of the Habeas Corpus, and by that time possibly you may have special matter against them; therefore we are not to infringe the laws, be the offenders ever so great. I know not whether the lords, *pro instantia*, may commit commoners: I would rather go some expeditious way, by Impeachment.

Col. *Birch.* If any gentleman of this house will come and inform you of a breach of privilege upon him, you never deny commitment of the person that did it. Scarce a gentleman of this house that will not agree this to be a horrible breach of privilege. Let your serjeant take them into custody and examine them, and so you have them in custody according to usage of parliament.

Mr. *Paul Foley.* I understand, a great many are in the Tower. If the king's council, who hear us, will inform the king, some course may be taken with them. If this house talk of breach of privilege with men they intend to hang, it is a strange course. There is no way we can proceed, but by Impeachment, and go generally to the lords to accuse them, and appoint a committee to draw it up.

Sir *Rd. Temple.* It is strange that men who lie in the Tower for the greatest crimes, should be fetched out for so low a thing as breach of privilege, and if you impeach them for any thing under treason, they may be bailed. I would have a committee to draw up a charge against them. Any thing that tends to subvert the laws is treason. Parricide is as great a crime as is in the world, but it is not high treason. Before the statute 25 Edw. 3, the greatest treason was subverting the law, and even a judge to break his oath, was judged treason at the common law. You may provide your evidence against these men, after you have impeached them, and I hope you will bring them to justice.

Sir *Christ. Musgrave.* It is your proper way to refer it to a committee, to examine the matter, and then bring the accusation; let the committee report to the house how the matter stands, but bring in no accusation, leaving that to the house.

Resolved, "That a particular Committee be appointed to examine into the Matters aforesaid; and who were the Authors and Advisers thereof."

Protest on the Bill for regulating Trials.] March 6. On the the 26th of Feb. a great debate occurred in the house of lords, on the Bill for the better regulating the Trials of the Peers of England; and this day the question being put, Whether this Bill shall pass? It was resolved in the affirmative.—Leave was given to any lords to enter their Dissents; and accordingly these lords following entered their Dissents in the Reasons following:—"1. Because nothing ever was or may be put into an Act of parliament, that can reflect so much upon the honour of the Peerage as this will. 2. Because this sets the Honour of the Peers and the Commons upon an equal foot. 3. Because such persons as may have Causes to be heard at the bar of this house will not be so confident of the justice of the Peers, and consequently be jealous of the Right that may be expected upon impeachments. 4. Because this strikes at the root of all the Privileges of the Peers, most of which they claim by reason of the great regard that the law has to the honour and integrity of the Peers above that of the Commons; the Statute *de Scandalis Magnatum* being enacted for that reason only. 5. Because it will be, in some sort, a mark of reproach upon every peer who shall be challenged, unless there be very great and apparent cause for it. 6. Because this will tend to maintain feuds and animosities amongst the Peers. 7. Because, at this time, it is unreasonable, considering the late Disputes and Divisions that have been in this house. 8. Because the Honour of every man, much more of a Peer, is, or ought to be more valuable than his life. (Signed) Delawarr, North and Grey, Kingston, Lindsey, G. C. Craven, Northampton, Delamer, Stamford, Pembroke, Lucas, H. London, Morley and Mounteagle, Winchester, Bedford, Manchester, Norfolk and Marshal, Berkeley, S."

The King's Answer to the Address of Lives and Fortunes.] March 8. The Speaker read

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the King's Answer to the Address of both houses declaring they would stand by him, &c. with their Lives and Fortunes, which was contained in these words:

"My lords and gentlemen; If any thing could add to the esteem and affection I have for Parliaments, and particularly for this, they would be much encreased by the kindness you shew to me, and the zeal you express for the public good in the Address you have made, which in the matter, as well as the manner, hath every thing in it that ought to recommend it to me.—I assure you I will never abuse the confidence that you shall put in me; being fully persuaded, that there is no sure foundation of a good agreement between a king and his people but a mutual trust: when that is once broken, a government is half dissolved: it shall, therefore, be my chief care never to give any parliament cause to distrust me; and the best method I can use for that purpose is never to expect any thing from them, but that which shall be their own interest to grant.—I came hither for the good of the kingdom, and, since it is your desire that I am in this station, I shall pursue the same ends that brought me. —God hath been pleased to make me instrumental to redeem you from the ills you feared, and it is still my desire, as well as my duty, to preserve your Religion, Laws, and Liberties, which were the only inducements that brought me into England, and to these I ascribe the blessings that have attended this undertaking. —When I spoke last to you, I told you of the necessity of assisting our Allies, and more especially the States of Holland, whose readiness to relieve you, at their too great hazard and expence, from the extremities you lay under, needs no other argument to move you to the consideration of it.—As I was then a witness of their zeal and affection to promote the Expedition, and second my endeavours, even with a neglect of their own safety; so I am now sensible of the inevitable ruin they have drawn upon themselves, by giving you this assistance, if you should not return it to them.—They have really exhausted themselves to such a degree both as to Men and Money, that it is not easily to be imagined, and I am confident your generosity will have as little bounds towards them, as theirs had towards you: and that you will not only enable me to make good the Treaty with them, and repay what they have actually laid out upon this occasion, of which an Account shall be given to you; but that you will farther support them to the utmost of your ability against the power of their enemies, who must be yours too, by their interest and their religion, and do certainly design the ruin of Holland to be a step to your destruction.—I need not take pains to tell you the deplorable Condition of Ireland, which by the zeal and violence of the Popish Party there, and by the assistance and encouragement they have from France, is brought to that pass, that it is not adviseable to attempt the reducing it, otherwise than by a very considerable Force, which I think ought not to be less than 20,000 horse and foot; which by the blessing of God, will make the work shorter, and in consequence, the Charge easier, though the first Expence must, of necessity, be great.—You are to consider that, towards the more speedy and effectual Success in relation to Ireland, as well as with a regard to France, there must be such a Fleet as may, in conjunction with that of the States, make us entirely Masters of the Sea that nothing can be sent from France either to Ireland, or any where else, that may give disturbances to us, or our allies. —I must also recommend the Consideration of the Revenue to you, that it may be so settled, as that it may be collected without dispute.— My Lords and Gentlemen; These things will amount to a great sum, and must of consequence be a present weight upon the people; but, considering that neither your Religion, nor your safety, can probably be secured without these means, I conclude you will think nothing can be too great a price for their preservation: and I will engage my solemn word to you, that whatever you shall give in order to these public ends shall be strictly applied to them; and that as you so freely offer to hazard all that is dear to you, so I shall as freely expose myself for the Support of the Protestant Religion, and the safety and honour of the nation."

Debate on a Motion for printing the Votes.] March 9. Sir *Tho. Lee.* In the Roll of the 9th Hen. 4, 'Nothing is to be taken notice of in Parliament, but what you shall communicate to the king.' I know not how the king may take notice of what you do, and if you print your Votes, the lords may do the same. It will only save the gentlemen the trouble of writing to their corporations.

Sir *Henry Capel.* You are told of the 9th Hen. 4. At that time, there were no Coffee-Houses, and no printing. If you could keep your Votes out of the Coffee-Houses, and suppress the licentiousness of printing, otherwise you make secrets here of what all the world knows. Treaties are made public amongst princes, and it is no good thing to make secrets of that which is known. The world ought to know your Votes, and there is no harm in it. As to what is said, 'that the king will concern himself in your votes;' the lords Journals are open, and so are ours. I think we make more of this than it is worth. I would have them printed.

Sir *Joseph Tredenham.* I cannot be persuaded that any thing now, or heretofore, has been for your service, by printing your Votes, but extremely to your disservice. I appeal how it is for your honour to make a Resolution in your Journal not to print your Votes, and now to make a contradiction in your Journal, to print them. Unless the cause of that contradiction do appear, it will make your counsels of little value abroad in the world. That you should alter your Resolutions weakly is not for your honour. What reason is there for most of your Orders, or for a Bill to be read

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three times, but for the more safety of your proceedings? Whether it is for the honour and credit of the house to vary Resolutions, I appeal to you. Those rules and measures our ancestors left us, are the safest way. The inconvenience every body is sensible of, in the ancient way of passing Bills by Item, where the king might reject and accept what he pleased. When the king shall come to take notice of what you do here, what becomes of your Liberty of Speech, and what becomes of your Freedom of Debates? It is contrary to the course of nature here, to make a general publication of what you do, before you make it in course of parliament. As for sending your Votes to Coffee-houses, it is a great crime; it is more for the service of the house that your clerks take not that liberty to publish them in Coffee-houses, and most for your honour not to print them.

Mr. *Hampden.* I see gentlemen ready to put the question, when they think a man is against it. The question is, Whether you print your Votes? I am sorry this question is stirred again. I remember it at the Oxford parliament—(I know the wheels that moved it then) I know that printing your Votes sounded well abroad, and it seems a popular thing, like sitting at Charing-cross, but the people had much rather hear our Reasons than our Votes, and no more. I have seen a Vote in a full house, at six or seven o'clock at night; the tide would not be stemmed, but there was a Vote passed; and when they thought better on it the next day, that Vote was unvoted again; whilst this is in your book only, there is no hurt. Is this all the argument, or does it look like one, that the people should know what you do? No ordinary council does it. The lords have not done it. Should you desire their concurrence to print their Votes, they will laugh at it, and their books are Records. One great reason for it is for the sake of the booksellers, or that younger gentlemen may be able, when the elder are in their graves, to know the Proceedings of Parliament; but they will see no reasons for them. Bills are not written in paragraphs, but all of a piece, and there is a reason in it; not that the clerks may read blank, but the reason is, that there may be no forging in it. If you print your Votes, consider what it is. There may be an inconvenience of intercourse; the lords against our privilege, and we against the judicature of the lords. The lords may tell you, you have voted something derogatory to the crown, and send you word, What have you to do with it? If you print it, will it not be a strange Message, that the crown should send you word of what you do? You must send the crown word, you intended not any thing against the crown; and of what strange consequences may this be? I have no end in this but regularity and decency. I have as great reverence as any man has for this house; and when you reverence yourselves, the world will have it for you. I hope you will not print your Votes.

Sir *Rd. Temple.* This matter is of more moment than at first it seemed to be; little benefit, and great inconvenience, may come from it. I dislike all innovations. In a great assembly, what is done must be with great reason: there ought to be no innovation. All that can be proved for printing it, is to rectify Coffee-houses, and for beyond sea. I saw, at Oxford Parliament, another thing gained, upon commissions that gentlemen had from their country about the Exclusion Bill. I hope we shall not imitate Holland, to go to our principals for Instructions; it may be of dangerous consequence to alter the government. I hear of balloting-boxes; they have had them in Scotland, but they are weary of them, as precluding all debates. This strikes at the essential privilege of parliament, when you have advanced in a Bill, and then reject it, and the people know not the reason of that. I would have sending the Votes to Coffee-houses redressed; but it is far less inconvenience than that your Resolutions should go about from yourselves with approbation: I never heard any good reason for it, nor any good success of it when done. It will prove a levity without doors, to alter your Vote already made, and your Reasons not known.

Sir *Tho. Littleton.* I am for printing your Votes, and I see no inconvenience by it; it will be great if you do not print them. England has from the clerks all you do, but not the truth of what you do; and it is fit England should know both. In former parliaments, when they were invading and undermining the people, they were ashamed of it; but we are now under a king that preserves our liberties, and there is no reason but the people should know it. It is fit the people should know the good things transacted betwixt the king and this house. Such a union may have great influence both abroad and at home. I am for printing them.

Mr. *Arnold.* I would not have L'Estrange and Nevil Payne write false news beyond sea. I desire the truth may be known, and am for printing them.

Sir *Rob. Howard.* Methinks the debate is, Whether you will publish your Votes tacitly, or expressly? If they are published without the stamp of authority, it seems you will rather permit it by an unjustifiable way, than a justifiable. If you will keep your Books secret, perhaps I shall be for that; but if you suffer them to be published by other means, then is not printing the honester and juster way? If the question be, Whether they be kept secret, or not, I have my opinion: I know not the methods of Holland, but now you have more justification for printing than you had formerly, when they were better not published at all, but kept secret. But this parliament has been chosen in better methods. Possibly some Votes are fit that the world should presently see; but whether they should be kept secret or not, I shall reserve my thoughts; but whether you will print them is much the more justifiable way.

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Sir *Wm. Williams.* I am sorry this has been moved to-day. The legality of doing it is out of the question. Notwithstanding all I have suffered for printing, by your Order, yea I think it not politic to do it now. It seems, it was a weak think in me (when Speaker) to obey the house of commons, and I was turned out, the last parliament, and I believe that was the greatest reason for it. When you have vindicated the poor men who suffered for printing, then I shall be for it. As for precedents abroad, I shall not take my measures from methods abroad, but from our own constitution: they are a Commonwealth, and we under a monarchy. There every man has a share in the government, but here not. Your Reasons will not appear with your Votes; and the people will not apprehend the Reasons of your contradictions. You will arm your enemies by it, and they will provide against your counsels.

Mr. *Paul Foley.* Orders here are of several kinds; some are unfit to be published. You have criminals come before you; it is unfitting their accusation should be published, and unfitting the evidence, that they may be prepared to surprize you.

Mr. *Hampden*, jun. Some gentlemen argue, as if you should keep your debates as secret as you can; but I think, if you print your Votes, you lay a sort of restraint upon yourselves. As for what is said of other countries, resolutions in council in Holland are final decisions, and fit they should be known; but when they are not finished (as in your Votes) it precludes your liberty of debate, and is a disservice to the house.

Col. *Birch.* I humbly tell you, I am heartily sorry for this debate, since it is not easy to see the consequence; it will reflect every way; it will let the world see you are subject to change. One day, Money is to be raised on one thing, another day, you reject it, and the world sees not your reasons. I am one of those that are heartily sorry for Williams's great sufferings, when he took the employment of Speaker upon him, and was trusted with the printing the Votes; and he did take upon him the Solicitor General's place in king James's time, because he did not know any way to get his fine again, but by such an office. This I say, for satisfaction to myself: I would not have gentlemen take notice of it. When we debate here of projects to raise Money, perhaps the Book of Rates may save our lands, and this may argue to the world impotency and weakness. In the mean time, any gentleman may put out any thing in writing at his peril: it is an unseasonable time, and an unseasonable question.

Mr. *Sacheverell.* I was against printing your Votes formerly, and am so still. I think certainly, it will destroy all good correspondence betwixt the two houses. Consider how things stand: if gentlemen please to remember, the lords sent down a Bill for the speedy Conviction of the Popish Recusants. This house passed a Vote, that the Bill should be rejected. How will that stand in your books, that such a bill was rejected? You went an extraordinary way, to tack Reasons why you rejected it; and you send into the country to subject it to their judgments. It was ever held parliamentary, that the king and lords take no notice of what is done here, till communicated by the house; and you, by printing, go about to tell every body what you do. You put yourselves into an uncertain, unparliamentary condition, and I cannot agree to printing.

The question being proposed, That the Votes be printed accordingly; the previous question was put, that That question be now put: the house divided, Yeas 145; Noes 180. So it was resolved in the negative.

Debate on the King's Speech.] March 11. The house resolved into a grand committee on the king's Speech.

Sir *John Guise.* There are three points touched upon in the king's Speech, relating to Money. The first is in relation to the advantage we have had from Holland, and what they have done for us, which we ought to be mighty sensible of, and touched with: and gratitude becomes us. The danger for their fleet in winter, &c. and the hazard that may be brought upon them by it. The next is, the consideration of Ireland: I would willingly have seen the State of the Army, and the Expence. The next is the Revenue, of which I would have all the branches before you, that you may consider, whether it shall be settled for life, or years.

Mr. *Papillon.* The consideration of Ireland, the Fleet, and Holland, all depend upon the Revenue, of which some is for life, some for a term of years. Some, the other day, thought all the Revenue was vested in the king; others did doubt it; therefore we ought to put it past doubt. Therefore I move for an Act to give and grant the Revenue to the king, that it may be collected without dispute, and an indemnity for the collecting it since the vacancy; and if the State of the Revenue be ready, I would have it delivered in by sir Robert Howard.

Sir *Tho. Clarges.* I would have the redundancy of the Crown Revenue, after the Government is supplied, applied to the uses desired in the king's Speech; I mean, take the Customs to be 600,000*l.* one year with another. The Excise is a Revenue by itself. See to have also the Addition upon Linen, Brandy, and Silk, and 400,000*l.* taken up upon them, and little to be depended on them—the Hereditary Revenue. The end of my proposition is, whether the Committee will take the Revenue as given in, or as I have reported it. I humbly propose, whether you will grant it for life, or years? I leave it to you.

Mr. *Garroway.* The Paper I have come by agrees with Clarges's account; but I think you are not ripe to come to that question, whether the Revenue be standing or not—Whether the Charges, for particular persons uses,

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upon the Revenue, shall continue? Begin, upon a fair clean paper, these Charges, whether they shall be continued, or taken away; and in that I shall serve you as well as I can.

Mr. *Sacheverell.* I take it, the Revenue ceases; it is *rasa tabula*; and I would have a short Bill to declare it so. Then you may declare such a part hereditary; but I shall be against a great Revenue, as in former time. If all may begin anew, I am ready to agree.

Sir *Robert Cotton.* If you declare all the Revenue fallen with king James, consider that all the Revenue has been wrongfully collected since the abdication.

Sir *Tho. Lee.* I hope you may have a shorter way. I remember, when the debate was the other day, some were of opinion, that the Revenue discontinued; the Hereditary Revenue was in another condition; but the house avoided that question, and referred it to a committee. The hereditary part of the Excise is not above 300,000*l.* per ann. granting it to be in the king and his successors from such a day from the time you have declared the abdication.

Col. *Birch.* I think the parliament were very prudent in 1661. The case was then directly as it is now. The Revenue was supposed to cease, and many, in London and elsewhere, hesitated the payment. You will not find it in your Journal, but in another place; and they declared, that it should be collected as legally as it was, for about six weeks, by reason that, in the mean time, they might settle it as now it is. Pass therefore a question, that the Revenue be collected as legally it might have been, &c. till farther consideration be had of it. In short, the country do generally hesitate, and keep all in their hands except 15*d.* the barrel. Therefore first put the question, that the Money may come in to the respective offices; and I would now order a Bill accordingly.

Mr. *Garroway.* I think you are not yet come so far. You say, it shall be collected; but you do not say to what end. Will you be tied up, by such a Vote, before you determine whether it be a standing Revenue, or an Aid? We know the burden of it, if you had, in Ch. 1's, Ch. 2's, and James 2's time declared it so: you will have a hard task to alter it, without declaring it now to alter it hereafter. Declare it, one part as Revenue, the other as an Aid and Supply; otherwise I shall be against the question.

Debate on the Bill for annulling lord Russel's Attainder.] A Bill, from the lords, for annulling and making void lord Russel's Attainder, interposed in the debate; and was read the first time.

Mr. *Finch.* I see many gentlemen's eyes are upon me; therefore I stand up to give an account of my reasons for the part I acted in that unfortunate business, that may more immediately concern me. [He was taken down to order, not speaking properly against the Bill] I am easily satisfied with the determination of this house. I am sure, my motion is for reading the Bill a second time. I stand up only for one Clause in the Bill. Every gentleman knows, as well as myself, that a conspiracy to levy war against the king, is treason, by the Statute 25 Edw. 3. [He was taken down again to order.] Give me leave to vindicate myself; what I shall offer will be very short; the reasons I had to urge that point of treason: if law-books have led me in the wrong, I am ready to rectify my opinion, whether to conspire without levying war be treason. It is to conspire the king's death, to keep him in custody till such things be done. It is to conspire, as in the case of Dr. Storey, to invite a foreign prince to invade the kingdom, though nothing followed upon it. It was treason in lord Cobham's case, upon debate of all the Judges, in the Report 'Conspiracy to levy war against the king' was, to conspire against the life of the king. To throw open all inclosures generally all over the kingdom, was the case of the Miller of Oxfordshire, who was actually executed. Upon this the difference stands in books. Any general design (though not immediately against the king's person) to keep him in custody, till he had confirmed any thing that the people would have, is treason; as in the case of Rea and Ramsey, in Rushworth's Collection—To raise war against the king, all the Judges declared it treason. Having said this, it is authority enough for any lawyer to do what I did. Whether the Judges were in the wrong, I shall not determine.—He was taken down again by

Sir *Henry Goodrick.* It is strange to me to hear that learned gentleman vindicate himself, when nobody accuses him, and thereby to arraign the justice of the Bill for repealing the barbarity of this attainder by this murder. This is not to be suffered.

The *Speaker.* The learned gentleman, from his own vindication in the part he acted relating to this noble lord, has let himself into law-books, against the orders of the house.

Mr. *Finch.* I ask pardon of the house. What I said was not against order, since the house gave me leave to vindicate myself. I only showed you what I had read, and am far from arraigning this noble person; I did not intend it, and have as much respect for this noble family as any body. And now I have vindicated myself as to my proceedings in matter of law, I desire the Bill may be read a second time.

Sir *Henry Capel.* For respect to the family and the memory of this noble lord, I am sorry this gentleman did speak; and to vindicate the memory of this noble lord, read the Bill presently. He has cited Book-cases to justify his proceedings, &c. which is properly at a second reading. I am surprized at this gentleman's proceeding, and am sorry he has proceeded so far.

Sir *Wm. Pulteney.* I have as much honour for this person, and noble family, as any body; but I would keep up order. I would not have

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the Bill read a second time now, but to-morrow. This learned gentleman did make a vindication of himself. I will not undertake to answer him presently; I may have occasion to answer him to-morrow.

Sir *Robert Howard.* I cannot name lord Russel without disorder. I would neglect all things to read this Bill a second time. Perhaps the learned gentleman may tell us how large the law is then; it is a sufficient thing to name that noble lord. I am not able to say any more; but pray read the Bill.

Sir *Tho. Lee.* This Bill declares, 'that the Law-Books the learned gentleman has quoted were wrong;' and if he doubts it, the reading it a second time will set that part right.—The Bill was read a second time.

Mr. *Boscawen.* I have hearkened diligently to the learned person's Law-cases. By the 25th of Edw. 3, we are Judges here of the true intent of that statute; and I would have it read [which was done]. I observe, by that statute, the abridging treason certain, which was before uncertain, for favour of the subject. It seems to me strange, if compassing the death of the king should be treason, and levying war, in another place of the statute: if that be false, it must be taken out of the Bill. To me it seems to be a great wresting of the law. It seems to be a transcendent wresting of the law. Pray read the Bill a third time.

Sir *Tho. Clarges.* I think the Bill is carefully penned, and I think the most that lord Russel could be guilty of, was but misprision of treason; war being not actually levied.

Sir *Tho. Lee.* If there be no objection against the Bill, it need not be committed.

Sir *Tho. Clarges.* In one clause of the Bill there may be two or three words left out. It is said, 'It is at the request of the earl of Bedford and lady Russel only.' The justice of the nation is greater to you than any particular persons inducement. This Bill is not *ex gratia*, all the nation is concerned in it. When it is *ex gratia*, it ought to be signed by the king.—The Bill was ordered to be committed.

Farther Debate on the King's Revenue.] Mr. *Pollexfen.* From doubting one part of the Revenue or another, we may come to think there is no revenue at all; and now settle it by Bill. You have brought in question the collecting of the Revenue, and given indemnity to those that gathered it, and, in the mean time, you give the revenue to nobody. This is so great a loss of time, that it is not serviceable to you, nor the present occasion of the nation, nor for the reputation of your affairs abroad. I thought it was taken for granted that it was a Revenue in the crown, &c. and when you have done, three months hence you will be in the same doubts. You will have as much to do in this, as to determine whether it shall be for life, or years. To talk of 'assisting the king with your Lives and Fortunes,' and not to enable the king! To give him power to take the Revenue, and now to declare it is no revenue! Settle it one way or other, without any thing of gathering it for three months upon uncertainty. This will lead you into such a course that you will not know the end of it.

Sir *Tho. Lee.* I think this does not lose your time, if you will settle the Revenue. You saw, since Pollexfen declared his opinion, the people have been still more in doubt. The motion is made for all the Revenue, in the lump, and this may be passed in two or three days. Then you will consider Ships, the king's Family, Ambassadors, Judges, the Army, and a part for the king's necessary support. Then you will find what may be spared for the public, and how to supply it; till this be considered, what in time of peace is requisite, and what in war; if three months be too little, make it six. When the state of war is known, you will know how near this will go to the payment.

Sir *John Lowther.* I will speak plainly what every man's heart is full of. The king has expressed himself in all kindness. He has trusted you with all he has in the world, and given into your hands a considerable part of the Revenue; and if you have the same jealousy of him, after all he has done and may do, this will gratify the Jesuits and France more than 200,000*l.* distributed and well given in the house of commons, to bring about their interest—

Sir *Christ. Musgrave.* Seeing you have not taken notice, Mr. Hampden, of what has been said to the orders of the committee, I do take notice of it.

Sir *John Lowther.* What I said of Money, I meant to particular persons. There have been people who have received Money, and seeing the Jesuits and Papists have spread these reports abroad, and foreign ministers will make Alliances with the States of Holland, and then if that State cease their intercourse with the king, application will be made to the house of commons, who give the Money, and not to the king. The wise part of the house of commons will understand this, though the weak do not.

Sir *Tho. Clarges.* I am sorry that, at this time, when all manner of duty has been expressed to the king from this house, there should be reflections of '200,000*l.* well given here.' I remember, persons in former parliaments had places, and were to receive the Money they gave, therefore were freer to give money than others, and we did fear to give money to others, and not to the king. Though we are not all upon one footing of honour and trust, we are upon one equal footing of trust for our country. I cannot make the Revenue be for longer time than has been proposed. Is it not fit that you should have three months to turn you in, that abuses may not be in the collection of the Revenue? Therefore it is fit that for this temporary Bill you give it for three months, or as long as you please.

Sir *Wm. Williams.* In the last parliament,

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he was the bravest man, and some said, fellow, that would give the king most Money. All were so much for giving, that the king said, he would have no more that session. We are not now a Parliament of Officers. We represent now all the people, the wise and the weak. And I represent the weak. It is not the work of weak men, to declare a present Provision for the Crown.

Sir *John Lowther.* I was mistaken in not giving the Revenue for three months, but only for collecting what Revenue king James had, and that question you have had ready for you—a safe, wise, and a sudden Resolve! The king did distinguish betwixt the Collection of the Revenue and the Settlement. I would declare it for three months.

Sir *Rd. Temple.* I would have all arguments forborne of distrust betwixt the king and us. I am very far from desiring the short Bill to be brought in for delay of Settlement of the Revenue. Can it be imagined that bills should be brought in for all the Revenue, on a sudden? I would make no distinction in the Bill of what is continued and what not. Not by way of grant.

Sir *Rob. Howard.* I speak not for the poor or the rich, the weak or the strong, of the house. I have an office, but in some offices I would not have been employed—[reflecting upon Williams]. By the way, I would show by a motion to continue the Grand Committee, and to proceed on the Settlement of the Revenue; though for the present we proceed only on the temporary Bill.

Mr. *Boscawen.* According to course of parliament, if you grant the king an Aid, and he accept it, the Answer is, 'Grandmercie ses bons sujets,' &c. If this be no Grant, what Answer shall the king give to this Bill? If as a Grant of Subsidy, the king thanks for it. There is not so much danger in the fault of collecting it as going this way. I am of opinion rather of a Vote of the lords and commons to strengthen it for the present. I shall agree to it, but it is an ill expedient, and you will be in this box, and not know how to get out of it.

Mr. *Eyre.* If this be determined, you arrive not at your end. I see, in this matter of the Revenue, we go on very heavily. In a matter of this moment to support the honour of the king, whatever you do in this Bill, if it goes as is proposed, you do less than nothing, to the joy of your enemies, and sorrow of your friends. Therefore I propose a Vote, that you grant the king a Revenue for Life of 1,200,000*l.* per ann. made up of such *items* as in the particular, &c. A great Revenue has been a great Grievance, but it was by no other method than we had put in their hands. Such a Revenue will be an evidence of affection to the king, and will support the necessary charge of the kingdom. And while this is the standard, it can have no oppression; and less than this proposed cannot be thought of. It will be in a Protestant hand, and you cannot doubt but the spareable part will be treasured up for the good of the subject.

Sir *Tho. Littleton.* It has been well moved a great while since, and I wonder at no conclusion upon it. To settle it for three months is the most acceptable and expeditious thing you can do. The king does not expect that you should settle the Revenue immediately, without great caution and consideration. Therefore that the king may be in no inconvenience, settle it for three months; which will be so far from a distrust, that it is kindly and gratefully done by the people, and the king will take it well from you.

Mr. *Finch.* You give the king double the Revenue, if you do it for three months. You give him the Revenue, and the hearts of the people. This you will do in two days, and perhaps the other way not in two months.

Mr. *Pollexfen.* If you say, 'I will not give the king this Revenue, but those that pay it not shall be under all the penalties as if it was given,' this will raise all the jealousy and shame upon us imaginable abroad.

Sir *Henry Capel.* It is not the intention of any man here to give the king the Revenue for three months, and Pollexfen mistakes the thing. We are beholden to those gentlemen who put us in this method at first. The Book of Rates, the Act for Excise, we do not yet know; there are complaints of the ill administration of them; now is the time to correct it. I speak it to the honour of the gentleman that made the motion, that you will have no delay in the thing. Then you will see the whole establishment and the expences, and what to give for an established Revenue. It is not a time to name the Revenue now; it is the doubt of some persons whether the Revenue is, or is not sunk; but continue the Revenue entire for three months, for support of the crown, and all will agree to it.

Sir *John Holt.* For time to consider the Revenue, I do not oppose it, but as to the hereditary part of the Revenue, if that be determined, there will be no need of such an Act. Some are of opinion that it is determined, but I have not heard one reason for it. If the king accepts this, the question is determined; and it is in being; the Revenue was given to the crown of England, and annexed to the office of king William and queen Mary; it continues, and stands in no need of a temporary act of parliament.

Mr. *Wogan.* It would be strange if the Revenue granted the crown, upon a valuable consideration, instead of the Court of Wards, should determine with the late king James. Was it granted on any other consideration?

Sir *Tho. Lee.* I am indifferent whether you put it on the hereditary, or temporary Revenue. If you had gone according to the opinion of the learned gentlemen, you had made no Act, but let them go on to collect the Revenue. The hereditary Revenue is so little, that, I believe, the house will supply it; the reason why it is asserted is, that part must go with the

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crown of England. But when the king must alien this to the Bankers, this must make such men as me scruple the matter.

Sir *Wm. Williams.* It is not the opinion of five or six men of the Robe that will guide, but what the law is.

Resolved, "That it is the opinion of this Committee, that a Bill be brought in to collect the Revenue till the 24th of June 1689, with a Clause of Indemnity to all who have collected it since Nov. 5, 1688, and before the 13th of February next ensuing."—Agreed to by the house.

Debate on the Vote for indemnifying the Dutch.] March 14. The house went into a grand committee on the king's Speech. Mr. Hampden in the Chair.

Mr. *Hampden*, jun. You have made a Vote to stand by the king with your Lives and Fortunes, in defence of the laws, and the Protestant Religion, and the king has given you a gracious Answer to your Address, and in a great measure has opened the present affairs of the nation and his allies. The condition they are in, and their deliverance, is in great measure owing to the Dutch Army under his conduct, and they have brought a great Charge upon themselves. The French king threatens Holland, and they must have a great Army to stop this torrent. In North Holland there are more Papists than Protestants, and in other places, they have nothing to depend upon but your generosity. Ireland must be thought of; besides what the king informs you of, you have it from other gentlemen that 20,000 horse and foot are the least you can send to reduce it; which will require a great sum of Money; but the king promises you it shall be laid out for the use of the nation. It is a difficult matter what to propose; but I humbly offer what has been done on the like occasion in neighbouring countries to yours. The Dutch had formerly war with Spain, and lately with the French king. They did, at the beginning of the year, make their State of War, and computed the Expences for carrying it on. By this, they took their measures from the king of France, who can raise what money he pleases. He makes the State of War himself, charges the Provinces, and they levy it to his satisfaction. I move that we may address the king, that we may have a Scheme or short State of the War drawn, of the Expence we must be at. As for the payment of his Debt to the Dutch, that is in pretty good forwardness.

Sir *Joseph Tredenham.* It is absolutely necessary to support the government, and the Revenue is necessary to be settled for the support of the government. The methods proposed to you last time the Committee sat may be considered. We lie under the greatest obligation imaginable to the king, who has delivered us, and eased us from a Tax so burdensome to the people. You are not yet ready, I conceive, for Hampden's motion, but for the ordinary Expences, it is absolutely necessary to support the Government.

Sir *Rd. Temple.* You are upon a method to proceed upon the king's Speech; all that has been moved has been contributary to it. I would have all you are to do before you, and then you will know what to apply to the Civil Government, and the other matters; as the Expence of the Dutch; and next, to assist the Dutch according to the Alliance, and the charge of it by computation given in; then, the farther charge of the Navy, besides what you are to assist the Dutch with; and then, the computation of the Affairs of Ireland. The king tells us, for Ireland it will require 20,000 men; what horse, what foot, &c. with the charge of transportation.

Sir *Tho. Lee.* Consider first the Charge of this present year, and then know what will make up these extraordinary charges. For the Fleet, and other charges, we are not tied up to a computation brought in to us, but what we shall judge of it.

Sir *Wm. Williams.* I never knew the house get any thing by looking into Bills of Parcels. I am as willing as any man to give Aid as far as the kingdom can bear it. I would consider what we are able to do, and you shall see I am in earnest to come roundly to it. First, make a retribution to the States of Holland, and leave the king to dispose of it as he thinks good. It is their men, and money, that have done our work. I move for a sum not exceeding 500,000*l.* for that purpose.

Mr. *Papillon.* Our condition is not so secure as it is thought. There is a great enemy that has an intention to destroy both the Dutch and us. Here is yet no Settlement of the Revenue, and they will be hard put to it. I see not so hearty a union abroad, as I could wish, though I am glad to see it in this house; but I fear there is an intention to undermine us. Here is yet no Settlement of the Revenue, the Oaths, nor the Courts of Justice. We know the computation of the Charge pretty near, and I believe the whole about 6 or 700,000*l.* If you voluntarily give the Dutch such a sum, without casting it up to a penny or two pence. But it is to me of great consequence, that as we address the king on other occasions, we may do it on this, that if we do support Alliances, we may be fixed in them. You cannot avoid war with France, and you must support Alliances, and let the king know so much. As for the Charge of Ireland, it is easily known, 20,000 men being the number given in; if we go to particulars, we shall never have an end. And as for the Customs, though some of them have been irregular, yet gather them as they have been these 28 years. Therefore I would address the king for an Alliance with the Dutch, which will save us, and we will supply him to support them.

Mr. *Harbord.* The king, in his great prudence, caused the Dutch ambassador to make an Account in general; accordingly the Secretary of the Admiralty made a computation of the charge. I have it in my hand. The king likewise commanded the Charge of Ireland

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to be computed, besides our defence at home; but that will not be perfect till to-morrow.

Sir *Tho. Clarges.* I would have something we understand. The Account is in guilders; we know not the value of them. I would have them computed to the value of our money. The debate runs upon Aid and Supply. It is not fit to state the Revenue, what it is for the maintenance of the Government? It is not reasonable we should bear all the charge.—Taken down to order by

Mr. *Harbord.* It is said, 'it is not reasonable England should bear all the charge.' The prince took the ancient troops of the States, and agreed with the German princes to supply them; they had the money, and the prince has bought them for ever; and it is not reasonable that England should pay all that charge for six months expedition only. I told the king, it was impossible to supply all at once. 'Therefore (says the king) I desire 200,000*l.* down, and the rest of the payments betwixt this and next Spring;' but there will not be so much for Ireland as for Holland. If the king of France, by fair or foul means, makes peace with Holland, you may throw your caps at Ireland. If the French king spreads his money among the Dutch, and says, 'I have seized your ships, but will let them go, and will make peace with you and the emperor,' what impression will this make among the populace! Says the king, 'Let the world see you take Holland into your arms, their spirits will rise, and be able to defend themselves:' say they, 'Give us but this credit, if your fleet is not ready, ours shall be.' But as for the Revenue, it cannot be computed; the Customs, by reason of the French goods, &c. fall to nothing.

Sir *Tho. Clarges.* I am ready to give the States of Holland all the returns of thanks for their great assistance in our extremity, and would have a union of coalition to support them, and ourselves; but I would consider what condition we are in. Says Harbord, 'they are ready to go into a war with France, and what becomes of your Revenue then?' But consider, if the Excise be certain, if the Customs do fall, we may aid the king from time to time for that defect. At the present, here is 500,000*l.* besides 1,200,000*l.* per ann. We have already given 400,000*l.*, and was it not upon part of the obligation to Holland? I do say, besides all the uncertainty, there is 500,000*l.* to supply all necessities. Take out the ordinary Revenue, and you have latitude upon the rest for taking money up upon security. The treasure of the nation is in your hands. I suppose you will dispose wisely of what is above the ordinary expence of the government.

Mr. *Papillon.* Eleven guilders is 10*s.* sterling, which, by ordinary computation, will come to 663,752*l.* sterling, for the Dutch charges.

Mr. *Howe.* There were reflections abroad on our proceedings yesterday. I would not believe ourselves like bullies, to eat and drink at a tavern, then quarrel with one another, go away, and leave the reckoning unpaid; and I fear we shall leave the Dutch so. As the gentleman said to his creditors, 'he will tell them to-morrow when they shall come again.' We are told of the French king and king James making preparations for Ireland; but he comes not thither as king James, but as the French king's minister. He has the French king's Intendant des Finances, and the French king has made regents over him, as some would have made him here. If you would have the Papists turn our churches into chapels, and make bonfires of the Protestants, then put this debate off till to-morrow. Therefore I move that Mr. Hampden may leave the chair, and that the house be moved for a Supply, &c. and give the people credit, that the delay may be no longer laid upon us; and name a sum of Money for the States of Holland, &c.

Mr. *Harbord.* You have had a good motion made. I would not have Mr. Hampden leave the chair till you resolve to move the house for a Supply for the Dutch, according to the computation given in.

Mr. *Hampden.* The committee never makes a motion for a sum: that is made in the house.

Mr. *Godolphin.* The gentleman over the way was upon a topic to induce the house to give Money, &c. which was from the French king's tampering in Holland, &c. I was in Holland when this house was zealous for an actual war with France, and then a peace was privately treated with France; which we ought to prevent now. If we cannot reduce Ireland, unless we secure Holland, that must be your first step. I move therefore, that the king be addressed to make a stricter Alliance with the States, and invite the emperor into it, for common security against France.

Mr. *Pollexfen.* Though we pay more for this Expedition than it has cost the Dutch, let us not enter into particulars; it will more heartily show our affection without examining them. The interest of the king puts us upon embracing the Dutch; if we show coldness, or delay, to aid and assist them, what will the world say? That we do not make returns for what they have done for us. I know no king, but the French king, that can hurt us, and considering what our ancestors have done, have we not by the prevalency of that king destroyed our neighbours? Let the world see we are returned to our senses, and that we are truly English.—The Speaker took the Chair.

Mr. *Boscawen.* The nature of the question, is, 'To give the king a Supply, to enable him to reimburse the Dutch, &c.' If the gentleman means to prove the charge, Harbord told you the king had examined it; and I believe if you will examine it farther, you will get nothing by that.

Sir *Tho. Lee.* I confess, I know not how to speak in this. It seems, by some gentlemen, if we come not to a sudden Resolution in this, we are undone; but possibly this nation and

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Holland will not be lost for one night's consideration. I have seen money granted here suddenly, but by them that have had shares in it afterwards. If the importance of this be such that we must break order, as formerly in the Long Parliament—

Mr. *Howe.* When I heard Lee move, I looked to see what o'clock it was. I would leave dinners for once, and go on.

Sir *Wm. Williams.* I can fast as well as Howe, but I cannot pray so well.

Mr. *Howe.* If Williams had gone on in the way he was once in, we should have had all fasting and no praying.

Sir *Wm. Williams.* Howe has forgot that the Bishops were acquitted, and who had a hand in doing it.

Mr. *Howe.* I protest, I do not accuse Williams for acquitting them.

The debate was adjourned to the following day; when it was resolved, "That 600,000*l.* be given to his majesty, to enable him to defray the Charges laid out by the Dutch in the Expedition to England."

Debate on the Mutiny of lord Dumbarton's Regiment.] March 15. Mr. *Harbord.* Lord Dumbarton's regiment, which is now marshal Schomberg's, with the grenadiers and some officers, have deserted, and chosen two captains. They have seized the Artillery at Ipswich, and have made Proclamation for king James. The regiment of fusileers is at Harwich; they say, they will declare with them. They are 1500 men, with the train of artillery,* and how many will join them I do not know.

Sir *Jonathan Jennings.* In order to what has been reported, certainly I believe there is more than ordinary in these things. I have received a letter from the mayor of Rippon, of some Papists, to the same effect; that the Papists are very high, ride in numbers, and have cabals. Therefore I think it fit that you secure your sitting here, and that the Government may be preserved.

Mr. *Harbord.* I hear, by letters from Norwich, 'that a Papist was seen by several to go into a house, and immediately the house was on fire, and he got to a place to have the prospect of it.' The person is examined and secured.

Mr. *Howe.* When we look before us, and see these things, there is a fault somewhere. I would know how these officers remain in command; and would address the king that some of the Dutch troops may be sent after them. I know not which else to trust.

Sir *Rd. Temple.* You see the present condition you are in. I would revive the Committee for banishing the Papists out of town. I know not what to advise you, unless an Address to the king to take some speedy course with the Papists; and I would have a Bill, 'That, if any person shall write, speak, or declare for king James, he be speedily brought to trial.'

Col. *Birch.* This is no jesting business; this is the countenance of more men than those 600 that were quartered at Brentford, and went away with their arms; and I believed they would come to the rest. This is not done without conduct; and you will have an army in a few days. I would address the king, 'That some foot and horse of the king's own, and what may be trusted, may join together,' and I hope, without a Bill, to dispatch these men.

Mr. *Hampden.* For the nature of the thing, I shall state the case; you need not be long resolving. I believe this an actual levying war by 25 Edw. 3. You cannot have counsel here that will be difficult. Do you but resolve this to be treason, and if king William and queen Mary be king and queen, this is treason; and correspondence, upon levying war, is treason, I believe. I would apply to the king to take some course in this, and that you will assist him.

Sir *Wm. Williams.* No doubt this is an actual levying war. Since you have acknowledged king William and queen Mary to be king and queen, whoever does adhere to the king's enemies, in or out of the kingdom, it is treason; so you need not make a law for it *ex post facto*, but it is provided by your old law to be treason; for they are king and queen *de facto*; and that law is a safe foundation for you to go upon; and come to a speedy resolution of this house, that they have committed treason, and so bring them to a speedy judgment, and thus the people will go along with you.

Sir *George Treby.* In this, I observe one thing, that it is good we have a king, for if we had had no king, nor parliament sitting, since they are so insolent in the face of the king and parliament, what would they have done if the nation had wanted one of them? In this crisis, if we cannot defend ourselves by law and sword, it is time for us to dig our graves, and lie down in them. Can any man doubt that this is treason? Your declaring it to be treason will weaken it, as if it were a doubt. I confess, I am not capable of advising you what to do, and (with great respect) I think this house not proper for military men's advice. We must go to war and open force, and we must oppose force with force, and maintain in the field what we have done in our council and senate. Therefore I move that the lord lieutenancies and deputies may be in such hands as the kingdom may be, and we sit in safety. I think all the powers of our profession useless in such a case.

* These regiments had been ordered by his majesty (with some others) to repair to the sea side, under the command of lord Churchill. (See the Journal). They all took the road to Scotland. General Ginkle was ordered to pursue them with a sufficient force of horse and dragoons, who soon obliged them to submit to the king's mercy; and the only punishment he inflicted on them was to send them over to serve in Holland.

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Sir Robert Clayton. The wonder of all this is, that we have not heard one word of the trumpeters of these disorders. They cannot forbear reflections upon persons the nation has an honour for. At Newcastle, some priests labour, all they can, to promote this work. I would have something done to stop these people's mouths.

Col. *Mildmay.* It is generally believed that these you are informed of are not barely alone, but that it is universal; and, as for those trumpeters, who have forborne praying for king William and queen Mary, and go not to church to hear it prayed, the question is, which is the best way to prevent this? It is said, 'What is done in so great an assembly will not be long a secret.' I think this proper in the king's council to whom you have given the government. The militia of England is a great body, 150,000 men, that serve you gratis; they bear their own charges, and you are safe in them. This being delayed (with some other things which have been too long) I cannot wonder now at the circumstances we are under: I rather wonder that we are so well, than so ill. I would recommend it to the king to settle the Militia, and especially that of London. As for the Money, I doubt not that you will lose any time. In the mean time, I would have letters to the sheriffs to stop them in their march.

Sir *Henry Capel.* I think you are ripe for a question. It is plain from what I have heard from the robe that this is treason. Corresponding with the late king is treason. I hope in time, that care will be taken that this impudence of preaching may be taken care of, and it will be mended. I would apply to the king for a Proclamation against these men.

Major *Wildman.* I have heard sad news, and many things have been well proposed; but the suppressing these men it is proper to leave to the king: but we ought to represent it to the king; and now we see so great a boil broke out, how many are like to break out? It is our duty to inform the king what we hear from all parts. I must inform the house that I have letters every day of the ill condition of the soldiers in their quarters; at Newbury, Abingdon, and other places, they would not suffer the cryer, or bell-man, to say, 'God bless king William and queen Mary!' There are papers cast about, to fright people with the change of the government, with millions; hundreds of these are dispersed; I have received some. The disease is so general, I know not what to propose; but it is proper for this house to give the king the best informations we can of the officers who connive at these things. I offer to the house to address the king to take a special care of the places where the late king's soldiers are quartered, and especially to have an eye that the officers prevent disorders, and to be fully assured of his officers, both civil and military.

Mr. *Hampden.* I offer it, notwithstanding the opinion of the learned gent., as I am not of opinion, 'that it is a vain thing to declare this Desertion of the Soldiers to be treason.' This at the first was taken only for soldiers mutinying, but what is there in declaring this to be within the 25th of Edw. 3? Soldiers deserting and corresponding with the king's enemies to be treason? You must speak out and say, this is high treason, and this will put an end to it, and men will be afraid to countenance it; and go to the lords, that, by your joint advice, the king may issue out his Proclamation to inforce the law, as your advice, as the only proper remedy, and that you will give the king your assistance in it.

Sir *John Lowther.* At the same time when you advise the Proclamation, consider the occasion, and then the proper remedies, that the cause may be taken away. In former reigns, criminals were so much the more enemies by how much they were in desperation, and therefore I would put men out of doubt, and make as many friends as we can. Therefore I move, that whether, as you made a strict enquiry into Grievances, there may not as well be an Act of Oblivion at the same time, and, at the same time, that you address the king to proclaim his pardon to such as shall surrender themselves, and return to their obedience and duty.

Sir *Rob. Howard.* The lords and commons addressing the king makes the Proclamation have greater force, and next to an act of parliament; but as for the Oblivion just moved to be put in, it looks as if you were afraid, and is a kind of seconding these men in their rebellion, and all this will look little less than an act of parliament.—An Address was voted accordingly.

Resolved, nem. con. "That an Address be presented to his majesty to desire him to take effectual care to suppress the Soldiers that are now in Rebellion, and to issue his Proclamation to declare them, and all that adhere to them, to be Rebels and Traitors." And the same day, the said Address being drawn and approved of, was, with the concurrence of the lords, presented to the king at Hampton-court; who was pleased to return the following Answer:

"That he should be very ready and careful to give such orders, as the lords and commons should desire; and that he had already appointed three regiments of dragoons, with orders to stop them and bring them to their duty; and, if they will not submit, to fall upon them: and that he would send immediate directions to his Attorney-General, to prepare a Proclamation, according to the desire of both houses, in the Address."

Debate on the Bill for disarming Papists.] March 16. Serj. *Maynard.* We are so mealy-mouthed and soft-handed to the Papists, that it occasions their insolence. I think it is fitting that all Papists should resort to their own dwellings, and not depart without licences from the next justices; and another thing, that all those of that religion bring all their fire-arms

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in, unless for the necessary defence of their houses, to officers appointed. It is not our Votes, nor the Ordinances of lords and commons, nor our being hot here, that will do it. I would not imitate their cruelty; I am far from it. I would let them have their religion in their private houses, but no harbouring Priests and Jesuits. You will pardon my boldness, but I hope I have done my duty.

Col. *Birch.* I think Maynard's is an excellent motion, and in good time. If we make a new Bill, perhaps it will not do so well, but, upon this motion of Maynard's, I would refer it to the same committee for the lords Bill, and farther, that the informer may have half the arms for his discovery.

Mr. *Wogan.* If you find not a way to convict them, you cannot disarm them. I would have a clause for it in the Bill.

Serj. *Maynard.* If any Papist should have a hand in firing houses, he should be compelled to help to rebuild them. For the present, if they do not deliver their arms upon the king's Proclamation, they shall be subject to such penalties as the law shall direct; in the mean time, that they be admonished.

The *Speaker.* I would not have this without effect, which, I apprehend, it will be unless they are convicted, and being not convicted they will say they are not concerned, not being convicted, and not one man will go out of town, nor deliver their arms. Unless actually convicted, you cannot know a Papist, and you will have no effect of this Proclamation.

Serj. *Maynard.* What you say is true, but they know themselves to be Papists, and upon the Proclamation you may lay your hands upon them severely.

Mr. *Hampden.* The insolence of the Papists is grown great, I hear out of the country. Do not give them encouragement by a *brutum fulmen.* I will not contradict Maynard in point of law; I know not who are Papists. He must be a legal Papist, else he is not within the Proclamation. Proclamations are to enforce, not to make, laws. He will keep his house according to law, and not go out of town. What law have you to compel him to deliver his horses? There you make a law clearly. I would not have gentlemen think that I believe it not just; but will you advise the king to cause the Papists to deliver up all sorts of horses, that are fit for warlike service, either for baggage, or dragoons? We shall terrify people by this Proclamation, the parliament now sitting; and we are told we must make an Act to do it. I confess this is new; I never heard it in a Proclamation before. If you advise the king this, he will say, 'see you advise me according to law;' he will order his counsel learned to draw it up; but they will say, it is not according to law. It is a hard point; if these objections are not of weight, I am mistaken. But you may have a law to offer the Papists the Tests, and you may have it presently executed by justices of the peace, when they are named. Something must be done, and speedily done, but put not yourselves upon difficulties, nor the king, but if you will have a short law for convicting them, I am for it.

Mr. *Howe.* If these gentlemen, the Papists, want paper to stop their guns, they may do it with Proclamations. I would have the king take up such persons as he may have just cause to suspect.

Col. *Birch.* I would not have this morning's debate lost, but have some fruits of it. I humbly desire that a committee may sit, and, upon debate of the house, a Bill may be brought in to convict them.

Sir *Rd. Temple.* I doubt that Bill will not do your business that is calculated for London; you will so alter the frame of that bill, that it would be better to have it in another bill.

Resolved, "That a Bill be brought in for the more speedy convicting and disarming of Papists."

The King's Speech in favour of Dissenters.] March 16. The commons being commanded to attend the king in the house of peers, his majesty gave the royal assent to 'The Bill for suspending the Habeas Corpus Act,' and that, 'to annul the Attainder of lord Russel:' and made the following Speech to both houses:

"My lords and gentlemen; Now I have the occasion of coming hither to pass these Bills, I shall put you in mind of one thing, which will conduce much to our Settlement, as a Settlement will to the disappointment of our enemies.—I am with all the expedition I can, filling up the vacancies that are in Offices and Places of trust, by this Revolution. I know you are sensible there is a necessity of some law to settle the Oaths to be taken by all persons to be admitted to such Places. I recommend it to your care to make a speedy provision for it: and as I doubt not but you will sufficiently provide against Papists, so, I hope, you will leave room for the Admission of all Protestants that are willing and able to serve. This conjunction in my service, will tend to the better uniting you among yourselves, and the strengthening you against your common adversaries."

Debate on the Bill for the Regulation of Trials.] March 20. A Bill, from the lords, for the Regulation of Trials, was read the first time.

Sir *Tho. Lee.* If I had not once seen a Bill of this nature laid on the table, and passed in an afternoon, I should not be against letting it lie on the table. Lord Clarendon's Bill of Banishment was passed a month after the Impeachment, when it was thought most convenient for him; which then I thought of dangerous consequence. It is my opinion that this Bill be thrown out; notwithstanding the good Clauses in it, it may be done for me and my family. When bills upon the first appearance are dangerous, they are usually thrown out upon the first reading. I would have all things in this parliament of a piece. You thought good for the present emergency to

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part with the Habeas Corpus act for a time, but is this the way to secure the government, to give liberty to the peers to conspire with James 2? I shall never think it for the peace of the government, if you pass this Bill, to let the peers do all they please with impunity. The end and design of the bill is, that the peers may have challenges, as the commons have. The bill is of no use to you. For here is a number of peers of the last parliament, or ought to be. Perhaps not above 80 temporal lords, and 60 summoned; some may be sick, or have business, or may be solicited to be absent: if 45 appear, and 20 are excepted against, there can be no trial. It was upon this argument before, when the lords sent down a Bill of this nature, 'that unless the lords were under the common safety of others, the king sitting in their house, and hearing their debates, they were in danger.' Is this a time to have that jealousy, now we are under this happy change? Were it for nothing else, pray let us not overturn the whole frame of government for the lord's sake. Every clause, in the Bill, relating to the commons, is equally beneficial to the lords. 'In Indictments for Treason, (the Bill tells us) we shall have counsel,' and it is for able Juries; is it not as well for the lords as us? For they must be tried in Appeals by common juries. The Bill is abundantly less beneficial to the commons than the lords. The crown you can oblige by intercourse of Aids, but there is none betwixt the lords and you. Great purchases were made of these Honours. Notwithstanding the dangers the lords apprehend, the bill is of dangerous consequence to the commons, and for the honour of the house I would reject it.

Sir *Wm. Pulteney.* No man can deny but that the lords ought to have fair Trials. Whenever the crown has a displeasure to a noble peer, by practices he may be drawn into treason, and a high steward may be appointed, and seven of the summoned lords to try him may take away his life. Will you at this time differ with the lords? This is a time, when you have a good king, to get good laws. The peers were very instrumental in bringing about this good change, and they desire only that their posterity may be in good condition, and out of danger. Some clauses relating to the commons are inestimable, as 'that a Juryman shall have 20*l.* per ann. of freehold to try a commoner;' and, 'that counsel shall be allowed in treason, &c.' Col. Sidney had not lost his life, if he had had counsel allowed him. Had that been four years ago, it might have saved the life of many a person. I hope you will take care for the future against the same danger. A commoner may exempt peremptorily against 35 jurors. I would have a good correspondence with the lords.

Sir *Wm. Williams.* I have a great honour for the peers, and as far as with justice I will do it. This Bill is not only dangerous to the commons, but to the crown too. There is a little sprinkling of Holy Water in this bill. It provides (as the Bill is penned) 'that all manner of crimes may be tried by the peers.' Though the preamble of the Bill tells you of Trials of 'capital crimes,' yet the body of the bill is 'all Trials.'—All peers are on their Honour; and you alter the very constitution of the kingdom. It may so fall out that the number of peers cannot be had, that this law requires, and so there may be a failure of justice. The whole design of the Bill is, that there may be a number of peers, that may judge against law and right. But can you give any one instance, that any peer, in our memory, ever miscarried upon the ancient way of Trial? if we had found any lamentable experience and example of this ancient way of Trial—but there being none, why should you alter the law for a bare suspicion only? In James 2's time, lord Brandon was found guilty by his fellow commoners, and condemned:* lord Delamere† by his peers was acquitted. What advantage do we get by this bill? We would have fair and equal Trial, and shall we, in prejudice of the commons, give this challenge away? It is almost impossible to have just trial this way. The peers are most of a blood, (the ancient peers) and so a commoner can have no fair trial against a peer, and they have already more privileges than the commons. You, by this, advance the peerage against the common right of the commons, and make it neither in the power of the king, nor the commons, to bring a peer to justice. The commons are straitened, and the crown is straitened. How many men have been undone by Scandalum magnatum! Commoners have had 20,000*l.* verdict against them; and a peer thinks himself dishonoured unless the jury gives what he demands. I would rather provide against these things. If the lords will set a limitation to Scandalum magnatum; (it may lie 20 years, and they may bring it about) if the lords will agree that no words shall be scandal, but where an action may be brought by a commoner against a commoner—Suppose a commoner say, 'He cares for a peer no more than a dog,' though a peer call me rogue and rascal—Let the lords frame a fair Bill, and we will pass it. If they will have ceremony, we will compliment them, and stand bare in their lobby, and the Painted Chamber, at conference; but matter of right we shall dispute.

* "In 1685, 'for conspiring with other false traitors (Monmouth, &c.) to raise a Rebellion, depose and put to death the late king, &c.' of which being found guilty by the prostitute juries of these times, he received sentence of death; but by applying properly made a shift to obtain a pardon; which sir John Reresby celebrates as a signal act of grace, because that lord had formerly been condemned for breaking a boy's neck in his cups, and had been admitted to mercy." Ralph.

† Lord Delamere's charge was 'for being an accomplice with Monmouth, in his late Rebellion.'

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Pray lay aside the Bill. What relates to the commons that are Grievances already, your Bill may do; and they are put into this Bill for a handle.

Sir *Rob. Howard.* By the consequence of Williams's discourse, he is for the Bill and against it. I think the Bill is rather descending to us than taking from us. That of Scandalum magnatum added to the bill may be of use. The bill does us no hurt. Methinks Juries of finding the Scandalum magnatum at excessive damage, and fines with *salvo contenemento*, may be remedied, and I am for the Bill.

Mr. *Hampden.* I am not for throwing out the Bill, nor for a second reading of it. Let it lie upon the table. I hear an instance of passing lord Clarendon's Bill of Banishment, &c. The house was then very thin. All Clarendon's friends were for passing it. A relation of Clarendon's for not passing it was at a distance—I am not for throwing it out, nor for a second reading, for I do not know the parts of it. Let it be well considered. If you cast out the bill, you can receive no bill of this matter this session. I would read it a second time in a full house.

Mr. *Finch.* I am for letting the Bill lie upon the table, and so be read in a full house. The objection for throwing it out is, because the peers have an equal benefit with the commoners, which is no objection. The number objected of the peers, 'that they may be solicited to stay away, &c.' they may be so to appear too.

The *Speaker.* To let the Bill lie upon the table, and order it no second reading, I never saw. The proper question is, 'Whether you will read it a second time.'

Sir *Christ. Musgrave.* The natural question is, 'Whether you will read it a second time.' The reason why you let the Bill lie upon the table, after you have read it, is, you are masters of the parts of it. In former parliaments, we were well acquainted with this Bill. I would have a question that every body may be gratified in. I would adjourn the debate.—The debate was adjourned till Monday fortnight.

Account of the Produce of the Excise.] Col. Birch, according to order, delivered in

An ABSTRACT of the gross and neat Produce of the EXCISE of England and Wales, in four years, ending 24th June 1688, viz.

Year ended 24th June, 1685.

	£.	s.	d.
Gross Excise of Beer, Ale, Cyder, Metheglin, Strong-waters, Coffee, &c. - -	627,523	18	8¼
Gross Excise of Brandy, Mum and Cyder, imported - -	48,491	3	8¼
	676,015	2	4½
Per Contra.			
Charges of Management -	86,263	11	0½
Exported Beer, &c. - - -	1,138	11	5¼
Arrears - - - - - - -	3,721	5	4¼
Neat Produce - - - - -	584,891	14	6
	676,015	2	4½

Year ended 24 June, 1686.

	£.	s.	d.
Gross Excise of Beer, Ale, Cyder, Metheglin, Strong-waters, Coffee, &c. - -	638,993	11	9¼
Gross Excise of Brandy, Mum and Cyder, imported- - -	33,741	3	10¼
	672,734	15	8¼
Per Contra.			
Charges of Management - -	85,852	14	6
Exported Beer, &c. - - -	620	16	0¼
Arrears - - - - - - -	2,128	2	3¼
Neat Produce - - - - -	584,133	2	10¼
	672,734	15	8¼

Year ended 24 June, 1687.

	£.	s.	d.
Gross Excise of Beer, Ale, Cyder, Metheglin, Strong-water, Coffee, &c. - - -	676,866	10	7¼
Gross Excise of Brandy, Mum and Cyder, imported - -	41,385	10	2
	718,252	0	9¼
Per Contra.			
Charges of Management - -	87,139	2	11¼
Allowance for Overcharge -	5	4	2¼
Arrears - - - - - - -	5,216	11	11¼
Neat Produce - - - - -	625,891	1	7¼
	718,252	0	9¼

Year ended 24 June, 1688.

	£.	s.	d.
Gross Excise of Beer, Ale, Cyder, Metheglin, Strong-waters, Coffee, &c. - -	682,172	9	3¼
Gross Excise of Brandy, Mum and Cyder, imported - -	50,146	9	1
	732,318	18	4¼
Per Contra.			
Charges of Management - -	88,639	15	9¼
Allowance for Overcharge -	30	4	10¼
Arrears - - - - - - -	7,290	4	11¼
Neat Produce - - - - -	636,358	12	8¼
	732,318	18	4¼

Memorandum. The additional Duty upon Brandy and Strong-waters, which began the 1st of July, 1685, is not included in these Accounts; which doth amount to 45,000*l.* per ann.

The gross and neat PRODUCE of the additional EXCISE upon Brandy imported, and inland Strong-waters, from the 1st of July, 1685, at which time it first began, to the 24th of June, 1688; viz.

From 1st July, 1685; to 24th June, 1686.

	£.	s.	d.
The gross Produce of the additional Excise upon Brandy imported - - - - - -	27,949	13	11
The gross Produce of the additional Excise upon inland Strong-waters - - - - -	7,583	7	7½
	35,533	1	6½

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Per Contra.

	£.	s.	d.
By Poundage allowed to the Collectors of Brandy in the Out-Ports, at 2s. per Pound	946	16	7
By incident Charges in the Port of London, and the Out-Ports	261	7	8½
By neat Produce	34,324	17	3
	35,533	1	6½

From the 24th June, 1686; to the 24th June, 1687,

The gross Produce of the additional Excise upon Brandy imported	37,365	2	0
The gross Produce of the additional Excise upon inland Strong-waters	8,614	9	11
	45,979	11	11

Per Contra.

By Poundage allowed to the Collectors of Brandy in the Out-Ports, at 2s. per Pound	998	10	1½
By incident Charges in the Port of London, and in the Out-Ports	348	17	6½
By neat Produce	44,632	4	3½
	45,979	11	11

From 24th June, 1687; to the 24th June, 1688.

The gross Produce of the additional Excise upon Brandy imported	45,224	6	2½
The gross Produce of the additional Excise upon inland Strong-waters	9,292	13	5
	54,516	19	7½

Per Contra.

By Poundage allowed to the Collectors of Brandy in the Out-Ports, at 2s. per Pound	968	0	1½
By incident Charges in the Port of London, and in the Out-Ports	322	7	7
By neat Produce	53,226	11	11½
	54,516	19	7½

Estimate of the Charge of Government.] Sir Rob. Howard, according to order, delivered in the following Accounts and Estimates:

An Abstract of the Medium Expences of the late king James II. by actual Payments in Money, for Three Years, from Lady-day 1685, to Lady-day 1688; viz.

To the Navy	417,462	12	10
Ordnance	83,493	9	3
Forces	610,883	1	5
Household	66,006	2	2
Treasurer of the Chamber	28,443	5	2
Wardrobe	15,125	3	11
Robes	2,676	14	9
Works	24,663	19	3
Foreign Ministers	32,657	9	7
Stables	11,045	13	0
Sundry Fees and Salaries paid at the Exchequer, and alibi	56,495	12	7
Pensions and Annuities	146,703	17	3
Band of Pensioners	6,000	0	0
Bounties, in gross Sums, paid at the Exchequer	27,680	10	8
Secret Services per Mr. Guy	89,968	8	2
Per Secretary of State	6,066	13	4
Sir Stephen Fox	9,333	6	8
Privy-Purse	26,416	13	4
Mint paid out of Coinage			
Jewels and Plate	15,740	6	0
Impost-Bills	96	12	0
Contingencies, not reducible to the foregoing Heads	22,403	6	3
	£. 1,699,363	2	9

Memorandum. The Principal and Interest to the Bankers and their Assigns, and the Interest of Monies borrowed.

Notes referring to the Estimate of the Expence of the Crown.

Navy.—In the last four years of Ch. 2. the Charge of the Navy was never less than 400,000*l.* per ann.

Household.—In Ch. 2's time computed at 107,000*l.*

Ordnance.—The Ordnance was always paid 1000*l.* the week, and 2000*l.* the quarter, which is per ann. 60,000*l.* And this Ordinary was never less; what was more, as in the Medium, was paid by peculiar Warrants.

Forces.—In the last six years of king Ch. 2. the Expence of the Force amounted to about 300,000*l.* per ann.

Treasurer of the Chamber.—The annual Expence, in Ch. 2.'s time, was computed at 30,000*l.*

Robes.—King Ch. 2. when all Heads were retrenched, continued the Robes at the Expence of 5000*l.* per ann.

Pensions and Annuities.—By the medium, it appears, one year's payment 146,703*l.* 17*s.* 3*d.* In these years 50,000*l.* paid to the Queen Consort every year. To the queen dowager 18,200*l.* yearly. To the prince and princess of Denmark yearly 32,000*l.*: but their Expences have exceeded this about 8000*l.* a year; which has been paid out of Bounty, in gross.

Privy-Purse.—In Ch. 2.'s time the Privy-Purse was computed at 30,000*l.* per ann.

Impost Bills.—In Ch. 2.'s time, was 3,600*l.* per ann.

Contingencies, &c. As Clerkships, Repairing the Highways, Law-suits, Liberates in the Exchequer, and other Casualties.

The Charge of the Crown, by the Medium presented, is yearly	£. 1,699,363	s. 2	d. 9
In Ch. 2.'s time, the Charge of the Forces was about 300,000*l.* per ann.	300,000	0	0
	1,399,363	2	9

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Charges upon the Revenue.	£	s.	d.
Mr. Tho. Fox, for the Security of his Place of Receiver of the Customs, by Tally - - - - - - - -	20,000	0	0
Mr. Duncombe, for the same, on the Excise - - - -	20,000	0	0
The City, on the Excise - -	185,525	0	0
To Mr. Hornby, on the Excise - - - - - - - -	5,000	0	0
To Mr. Hall, on the Hearth Money - - - - - -	47,000	0	0
	277,525	0	0
There is in Arrear to the Army and Navy, about -	300,000	0	0
There is also a yearly Charge of 79,566*l.* 14*s.* 2*d.* for perpetual Interest to the Goldsmiths and their Assigns; which is now in Arrear, at Lady-day next, for six years - - - - -	477,400	5	0

Resolved, "That the said Accounts be referred to the Committee of the whole house, who are to take into consideration the Revenue, and the constant and necessary Charge of supporting the Crown."

Farther Debate on the King's Revenue.] The house then resolved into a Committee of the whole house to take into consideration the Revenue.

Sir *Wm. Williams.* I take the Revenue to be 1,580,000*l.* out of this certainty I deduct the Hearth Money, 200,000*l.* Your immediate Charge then is the constant Charge of the crown. If you give the crown too little, you may add at any time; if once you give too much, you will never have it back again. Therefore I would declare the constant Charge of the crown.

Mr. *Sacheverell.* I agree, that it is necessary to consider the constant Charge of the crown in time of peace. By the Charge of the Navy and Army, in king James's time, we cannot make computation, nor from the calculation made from king Charles's, when the Expence was extravagant. Rather then compute the moderate Charge in king Charles's time. I would know whether, in the years 1673, 4, 5, 6, the Customs did not arise to as much as in all the severe way of management? 'Tis necessary that you agree what the common Expence of the Government is, under Heads, as it was drawn up in the time of sir Wm. Coventry; the Pensions were never heard of till Mr. Guy's time. Expences are much lessened, and the Revenue advanced. Bating the Navy and the Army, I would see if the constant Charge is not above 400,000*l.* per ann. As if 600,000*l.* for an Army for ever—To find all the Navy out of repair, and cost as much as when in-service, I cannot agree. Because the Army and Navy cannot but be maintained, therefore I am of opinion, that the Navy and Army are not to be considered in the constant Charge. I doubt not but we shall give what is necessary; but I would consider the Navy and Army as an extraordinary Charge.

Mr. *Guy.* I hear my name mentioned upon the head of great Sums, though under the denomination of Secret Service. The reason was, to ease the charge of the great seal: But, be it what it will, I am ready to give account, to a penny, of what I received.

Mr. *Garroway.* I am ready to serve you to come to an end. I agree not to the Medium; but if you will come to make a Revenue for the king, we cannot say the Revenue will stand to 1000, or 10,000*l.* there being several variations of the Customs in several years. We are now providing for a War, and something of the Revenue may be applicable to it. I except not against the accounts of the several particulars of the small branches of the Revenue, but I hope the king will contribute to the War as well as we; it is for his safety. Shall we be worse husbands now, than in the late kings reigns, in all the extravagancies of expences? Compute the necessary Charge of the Crown, and let the remainder be applied to the Charge of the War.

Col. *Birch.* I would refer all the Charge of the Government, and that of the Houshold, to the privy council, except that of the Navy, the family that rises and falls upon occasion. This being presented to the house, you will immediately see the Charge; else you will be long in your Resolutions.

Mr. *Harbord.* Here have been several motions. You may be sure, that the money you give will not be spent in debauchery and lewdness, but employed as you would have it. Either to make particular provision, &c. or in gross, I am indifferent. In another thing, you must give the king your helping hand, or else you do nothing: There is a farm given out of the Customs to the dutchess of Portsmouth's children, which is the farmage of coals, and that is in papists hands.

Sir *Henry Capel.* You are pretty near a question. The establishment of the Government is agreed on all hands: there remains nothing but provision for the Ordnance, Army, and Fleet. Though in peace you'll allow for a summer-guard, and in winter for the safety of trade: the Plantations, Indies, (and they had more men of war there than we here) these are to be considered, in time of peace, as part of the Government in peace. I do not understand, that what is established for the Fleet and Ordnance is for the sum total of the extraordinary Charge. The question is only now, of having an account brought you. You will have no head of it of Secret Service to trouble you. There must be an Establishment for the Queen, and princess Anne, who has deserved very well of the nation.

Sir *Tho. Clarges.* What Charge is for the Fleet in time of peace, must go into that in time of war. There is a Charge of the Ord-

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nance of 60,000*l.* per ann. for yatchs, and ketches, &c. The fairest way will be, to agree a certain sum for the Revenue, and not meddle with the distribution of it, and so refer it to the king; who, if it be too little, will inform you by his ministers, and if it be wanting, you may supply it.

Sir *Tho. Lee.* I know not how the condition of the War may leave you. I love not to please myself with the names of a Navy and Army. But not so properly till we see how things stand abroad; how Alliances are concluded: but I think the debate lends you to consider of Ireland, and to support the Charge of this year's War, and to know what of the Revenue will do. What the constancy of the Revenue must be, men are tender, but will be willing to supply the present emergency.

Sir *Christ. Musgrave.* 'Tis absolutely necessary, when you consider the Revenue, that you consider the summer and winter-guard, and likewise the Ordnance and Garrisons; and all these must be in your eye. As for the Expences of the Civil Government, you have as much before you as is desired. You must likewise consider the queen, and the princess of Denmark; and when that is done, I would not be pinching to support the government at ease. I know we are under great necessities for raising Money, and for the Charge of the Ordnance, I can do it to a farthing. I believe England can never be without some standing force. I deal plainly with you.

Mr. *Sacheverell.* I would gladly settle the Revenue; but I would know, when you have voted the sum for the Revenue, how you can deduct any thing. Therefore I would have had particulars.

Col. *Birch.* I never was so puzzled in a question, in my life as in this. We are establishing a Revenue, as in time of peace; pray God we may see it! I understand the debate to be this; they that know the Revenue, to bring in what particulars there are for the Government. I really would vote 1,200,000*l.*; and I would have the world know that the king has such a Revenue; and the privy council will tell you what is for the Civil Government; else it is in effect to settle a Revenue of 400,000*l.* per ann. only.

1,200,000*l. voted for the Annual Revenue.*] Resolved, nem. con. "That it is the opinion of this Committee, that there be a Revenue of 1,200,000*l.* per ann. settled upon their majesties, for the constant necessary Charge of supporting the Crown in time of peace." Which was agreed to by the house.

Debate on the Supply for Ireland.] March 22. The house resolved into a grand committee on the Supply for Ireland; Mr. Hampden in the Chair.

Sir *Wm. Williams.* All are agreed for a Supply; 'tis before you, the sum and the time. You have had computations; and you may conjecture, probably, what will do. 'Tis your present consideration, whether you will give an Aid for 6 months or 12; which I see is no great difference. All of us have confidence in the king, as a good husband. I would vote the sum for 12 months. If the king can spare any of the money, in reducing it, or scattering it amongst them, he will. But I would have it from 3 months to 3 months, not exceeding 600,000*l.* We may add when we please.

Mr. *Hampden.* The sum computed is 610,000*l.*

Sir *Rob. Howard.* I would not have you make good husbandry, at the expence of our own hazard. 'Tis said, 'You may raise it at so much a quarter.' You must consider, you cannot raise this but by annual things. There is 600,000*l.* for the Dutch. The next you are to raise, must be so much a year for so many years. Ireland is not able, in the least manner, to afford subsistence. Those who are up, and assist you, must have pay from you. He that has done so much for us, will not turn upon us, to take any thing from us unreasonably.

Mr. *Garroway.* I would know upon what we are to lay the Money, before we think of the way of raising it, lest we should have recourse to land-tax at last. I move, to raise 310,000*l.* for six months, and so from six months to six months.

Sir *Christ. Musgrave.* Not one point of the Estimation is disputed; but some part of the Charge cannot come in the rest of the six months; all the rest to be deducted from the rest of the six months. But I am for the question of the whole sum.

Mr. *Harbord.* This 300,000*l.* will not carry your forces into Ireland. Persons have been sent into the north of Ireland, and there are not oats for your horses, only grass; they must be had out of Cheshire, Wales, and Lancashire. Money must be spent in bread, barley, and beef. What with the levy-money and arms, you will not have one shilling to keep them the rest of the time. They have commissions in Ireland for 30,000 men; and as soon as the king shall land these men, all must be supported at the king's charge. This way will be fatal to the king and yourselves.

Mr. *Hampden*, jun. The charge of one year is partly agreed upon; and I think it must be for a year, for this reason: 'Tis more than an Irish war; I think 'tis a French war. The French king has carried king James into Ireland; and there is no way possible to bear that great force, but by securing Ireland. You must give the king such a fund of credit, as that foreign protestants may come into alliance with him. Always, the computation of Germany is for a year; if for half a year only, no body will ever join with you. If for common defence, do it for a year, that they may joint with you. Therefore I move for 700,000*l.*

Sir *Joseph Tredenham.* If you had a prospect to end the war in a year, I would give it for a year. I fear it will be a longer time; and, let it cost what it will cost, and for as long a time as it will, it must be maintained.

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You are told of 'oats, and other things;' but the allowance to the soldiers is what they subsist upon, and their pay discharges that. To vote, 'That you will supply the war from time to time,' gives it the greatest reputation imaginable. And I would maintain this war with the greatest ease to the people, that you may have their hands and their hearts to assist you. I speak not this to stop your forces. But there were formerly reimbursements out of confiscated estates, upon money lent here, upon those that have brought us into this necessity. For six months I would give fully; but, I hope, that nation may maintain the war after that time.

Sir *Rob. Howard.* What Garroway said is rational. We are all of a mind for the whole, but the difference is the provision for 6 months, &c. We are, in effect, paying a land-tax to our advantage in the sale of corn. 'Tis true, a great deal of Money is to be raised. The motion of not exceeding 700,000*l.* does not hinder you from the manner of raising it. The next thing will be the way of raising it.

Mr. *Hampden*, jun. I fear the war will not be thoroughly begun in six months. Do you hink the French king will lay aside his fundamental policy, to keep you in continual work, as he does in all other places?

Col. *Birch.* What sum soever you put, is alike to me. We are to confederate; and will that give your Alliance any encouragement? Will this be an encouragement to your friends, (I know not how many they are) to tell them but of six months provision for the war? The business cannot be well begun in six months. I am far from thinking that six months will make an end. You have Ireland, and the French, upon you. This will be an encouragement to your enemies.

Mr. *Garroway.* You have now a Land-tax, and you have not appropriated one penny to the use you intended it yet; and if you take not up Money upon interest, I know not where you will have it. This is not all the Charge; it will cost you more.

Mr. *Sacheverell.* I have attended the debate as well as I could. I take it, that the gentleman that moved for six months, would raise men, and send them into Ireland; and, if there is farther occasion, would comply with the same sum to go on, because he thinks that necessary at the first beginning of the war, but not afterwards. Those who stand up for a previous question, I would know whether they are not against the Supply. I think these men cannot be sent over till the latter end of the year, and keep the sea in the mean time. I would, therefore, vote the six months Supply, and the rest I shall do as I think fit.

Resolved, 1. "That a Supply be given to his majesty, of 302,361*l.* 17*s.* 10½*d.* for the maintaining 22,330 Men, and Officers, and the Contingencies belonging to the same, for six months, towards the reducing of Ireland. 2. That a further Supply be given to his majesty, of 27,451*l.* 13*s.* 4*d.* for the Levy-Money, and Transportation of the Forces aforesaid. 3. That a further Supply be given to his majesty, of 81,935*l.* 17*s.* 3*d.* for providing Artillery, and other Necessaries, by the Office of the Ordnance, for the use of the Forces before-mentioned. 4. That it will be necessary, that the like Supply of 302,361*l.* 17*s.* 10½*d.* be hereafter granted, for paying the Forces aforesaid, and for Contingencies for other six months, if the War in Ireland shall so long continue."

Bill brought into the H. of Lords to abrogate the former Oaths.] According to the king's desire, signified in council, a Bill was presented in the house of lords this month, for abrogating the former Oaths of Supremacy and Allegiance, and appointing other Oaths in their stead, which being read a second time, a select Committee was ordered to draw two Clauses; the one to explain the abrogating the said Oaths, and the other to take away the necessity of receiving the Sacrament, to make a man capable of having an Office.

Protest thereon.] This last Clause being drawn up accordingly, and reported to the house, was rejected by a great majority, on which occasion the following Protest was entered:

1. "Because a hearty Union among Protestants is a greater Security to the Church and State than any Test that can be invented. 2. Because this Obligation to receive the Sacrament is a Test on Protestants rather than on the Papists. 3. Because so long as it is continued, there cannot be that hearty and thorough Union amongst Protestants as has always been wished, and is at this time indispensably necessary. 4. Because a great caution ought not to be required from such as are admitted into Offices than from the members of the two houses of parliament, who are not obliged to receive the Sacrament to enable them to sit in either house. (Signed). North and Grey, Chesterfield, J. Lovelace, Delamer, Grey, Vaughan, Stamford, P. Wharton."

The court party having lost this point, they made another attempt in favour of the Dissenters, which was by inserting a Clause in the said Bill, to prevent the receiving the Sacrament of the Lord's Supper, upon any other account than in obedience to the holy Institution thereof, and by freeing persons to be admitted into any Office, or Employment, from the necessity of receiving the said Sacrament, in such a manner as is appointed by an Act made the 25th Ch. 2, that is, according to the Church of England; provided a Certificate were delivered of the said persons having received the Sacrament, under the hands of a minister, and two other credible persons: but this Clause being likewise rejected, leave was given to such lords as will, to enter their Dissents, and these lords do enter their Dissents in the Reasons following:

1. "Because it gives great part of the Protestant Free Men of England reason to complain of inequality and hard usage, when they are excluded from public Employments

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by a law, and also, because it deprives the king and kingdom of divers men fit and capable to serve the public in several stations, and that for a mere scruple of conscience, which can by no means render them suspected, much less disaffected, to the government. 2. Because his majesty, as the common and indulgent Father of his People, having expressed an earnest desire of Liberty for tender Consciences to his Protestant subjects; and my Lords the Bishops having, divers of them, on several occasions, professed an inclination, and owned the reasonableness of such a Christian temper; we apprehend, it will raise suspicions in mens minds of something different from the case of religion or the public, or a design to heal our breaches, when they find, that, by confining secular employments to ecclesiastical conformity, those are shut out from civil affairs whose doctrine and worship may be tolerated by authority of parliament, there being a Bill before us, by order of the house, to that purpose; especially when, without this exclusive rigour, the Church is *secured in* all her privileges and preferments, *nobody be* ing hereby let into them who is not strictly conformable. 3. Because to set Marks of Distinction and Humiliation on any sort of men, who have not rendered themselves justly suspected to the government, as it is at all times to be avoided by the makers of just and equitable laws, so may it be particularly of ill effect to the reformed interest at home and abroad, in this present conjuncture, which stands in need of the united hands and hearts of all Protestants against the open attempts and secret endeavours of a restless party, and a potent neighbour, who is more zealous than Rome itself to plant Popery in these kingdoms, and labours, with his utmost force, to settle his tyranny upon the ruins of the Reformation all through Europe. 4. Because it turns the edge of a law (we know not by what fate) upon Protestants and friends to the government, which was intended against Papists, to exclude them from places of trust, as men avowedly dangerous to our religion and government; and thus the taking the Sacrament, which was enjoined only as a means to discover Papists, is now made a distinguishing duty amongst Protestants, to weaken the whole by casting off a part of them. 5. Because Mysteries of Religion and Divine Worship are of divine original, and of a nature so wholly distant from the secular affairs of public society, that they cannot be applied to those ends; and therefore the Church, by the law of the Gospel, as well as common prudence, ought to take care not to offend either tender consciences within itself, or give offence to those without, by mixing their sacred mysteries with seculiar interests. 6. Because we cannot see how it can consist with the law of God, common equity, or the right of any free-born subject, that any one be punished without a crime: if it be a crime not to take the Sacrament according to the usage of the Church of England, every one ought to be punished for it, which nobody affirms; if it be no crime, those who are capable, and judged fit for Employments by the king, ought to be punished with a law of exclusion, for not doing that which it is no crime to forbear.—If it be urged still as an effectual Test to discover and keep out Papists, the taking the Sacrament in those Protestant Congregations where they are members and known will be at least as effectual to that purpose. (Signed) Oxford, Mordaunt, J. Lovelace, R. Montagu, P. Whatton, Paget."

King's Message recommending a Bill of Indemnity.] March 25. Mr. Hampden delivered the following Message from his majesty:

"W. *R.* His majesty, out of an earnest desire to deliver his people from the guilt, reproach, and penalties, which many of them may be liable to; and to put an end to all controversies arising between his subjects, by reason of any disorders in the late times; and to take away all distinctions and occasions of discord among them, to the end that they, having an entire confidence in his majesty, and perfect union amongst themselves, may be encouraged in their duty to his government, and more fully and securely enjoy the benefit of it; and his maj. judging, that the best way to render this his gracious purpose most extensive and effectual, is to pass an Act of Free and General Pardon, Indemnity, and Oblivion: His maj. doth earnestly recommend the consideration thereof to both houses of parliament, that, with all the expedition a matter of that kind will admit, they may prepare a Bill for that purpose, for the royal assent; with such Exceptions only, as to them shall seem necessary for the vindication of public justice, the safety of their majesties, and the settlement and welfare of the nation for the future."

Debate thereon.] Sir *Christ. Musgrave.* This Message from the king is very gracious, and I think the house should consider it as soon as possible; and we ought to return his majesty Thanks for his gracious favour.

Sir *Joseph Tredenham.* I would express that gratitude to the king with all the solemnity imaginable.

Sir *Henry Goodrick.* I would have your Thanks returned in the most solemn manner, in writing, and the Speaker to present it.

Mr. *Harbord.* You have received a Message from the king, &c. and it is necessary there should be an Act of Oblivion; but I hope you will take care that posterity shall not fall under the same calamities we have done, for the future. If there be not some examples made of persons who have overturned your laws, you will never want those to overturn your government. Therefore, to prevent for the future, make some examples of the great offenders.

Mr. *Howe.* This does not surprise me, if I look upon the king's carriage; a king so gracious as to admit such persons into his presence, that have been against him. I hope

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their crimes are forgotten, and that we shall forget them.

Sir *Henry Capel.* You are upon a method of returning the king Thanks, and you are told of a precedent of the Convention. It is said, 'you need not look into books for it, because that was an irregular time.' But, in that parliament, were men of great understanding and worth, and you cannot do better than search those precedents out of the Journals. As to what has been moved, of a committee of the whole house, to take the Message, paragraph by paragraph, and debate it, when will there be an end? The king desires dispatch, and where will be the end of a committee of the whole house? A Grand Committee will be dilatory; therefore I move for a special Committee to draw up the Thanks, &c.

Mr. *Howe.* We owe much of our misfortunes to that Convention; therefore I would not have that made a precedent.

Sir *Joseph Tredenham.* I am of opinion, that was a happy parliament. I remember the perplexity the nation was in, and the settlement they made. I would proceed according to that method, and you may rectify any errors of that parliament by viewing the Journal. I would go into a committee of the whole house now, and accelerate the Answer. The afternoon is not so happy in our proceedings as when done sedately in the morning.

Mr. *Garroway.* I would have some good effect of this debate, which may be easily obtained, if you will appoint a Committee to search the Journals, and they make you a Report of what they find, and then you may go into a Grand Committee.

The Thanks of the house were voted to his majesty, and a Committee was appointed to draw up an Address.

Debate on the Coronation Oath.] The house being informed, That the Committee, to whom it was referred to inspect the Coronation-Oath, and consider what Alterations or Amendments are fit to make therein; and to report the same to the house; had sat several times, but could not come to a determination of what was so referred to them; resolved, "That the house do now resolve itself into a Committee of the whole house, to take the same matter into their consideration."—Mr. Dalben took the Chair of the Committee.

Mr. *Hampden*, jun. I know not what gentlemen may mean by the old Coronation Oath. Some may mean the last Coronation Oath, as formerly. The Oath stands thus: the committee looked into the old precedents for the original of this Oath. They looked into the Statute Book, and other law books, but it is in none but the Roman Pontifical. Every body knows how the Clergy have usurped to themselves authorities, as of marriages, divorces, adulteries, probate of wills, &c. We find by the ceremonial and ritual in other courts, as well as in England, they are not found, but in the ceremonials and rituals of the Roman Church. In Brackton only I find it, who informs, 'that the king did swear in the name of the Lord Jesus Christ, to maintain, &c.' [and reads the rest at large.] It was Canutus the Dane, &c. The Oaths of E. 3. II. 4. E. 6. as if a woman should be married, and the man make no promise. There is an allegiance sworn by the subject, and, by law, no Oath by the king.

Sir *Tho. Clarges.* I move for an addition to the Oath, 'that to the utmost of his power he will maintain, &c. the Protestant Religion, established by law.'

Mr. *Howe.* If there was any doubt that our Religion was not established by law, I would be for it. I think this is in opposition to Popery, but not that the king shall defend no part of the Protestant Religion, but what is established by law.

Mr. *Hampden*, jun. I can add something more, than what I have said in matter of fact. In the ancient Oaths were the Laws of Edward the Confessor. They were Capitularies, of which some are expired. It is not said, 'according to the laws in being.' By this, every casuist will tell the king, he is obliged, in the strictest sense, never to alter them. That is always left to the legislators to alter them. As to trials and judgments not according to the laws in being, this is an Oath in time to make it perjury. You mean, 'according to laws that shall be made.' As to Religion, in some things, the king swears positively to the true profession of the Gospel, that is, the Christian Religion, no latitude in that, and then comes to the Christian Religion as it is against Popery; and this is the stress of all your Oath. Protestant is looked upon as a word honourable; and, not only the word, but the thing, to the last drop of blood. It is every body's endeavour to keep up the Reformation, and avoid returning into Popery. As to the Doctrine; it is suitable to God's word, and therefore in that matter to leave the king no sort of latitude. But, as to Discipline, many Acts have been made to alter it: I say nothing to oppose it, but I speak to that which makes the thing unsafe—That the king maintain the Church, as they may have all protection from the king, he governing according to law, and they doing according to law; both the higher and lower degree of the Clergy, demeaning themselves as they ought, may be protected.

Mr. *Garroway.* You have a great work upon your hands, upon which our future happiness must depend. You must consider what it is the king can, and what is fit for him to take. I am for 'the National Church;' if you tie it up strictly 'according to law,' you do not know whether the king be free to grant you what you require. I would have the Church-doors made wider, and I think it might easily be done. In order to that, I move, 'That the king, in the Oath, swear to maintain the Protestant Religion, as it is, or shall be, established by law.'

Sir *Joseph Tredenham.* Whenever a Bill of Comprehension shall be brought in for all our

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safeties, I shall be for it. To put into the Oath 'by law established,' is a tautology, and hardly good sense, being already done. You are told, 'all sorts of opinions are to be governed by the law of God;' are not all sorts that ever have been, or are like to be, pretenders to it? Look on the Protestation of Augsbourg; there is not such a correspondence as people may imagine. As to the word 'reformed,' all the sects pretend to be so. Then 'as by law established,' it is said, relates to Religion. Can there be any thing altered relating to Religion? The body of Religion is the Doctrine, and I shall never vary from it, and I hope no body here ever will. What do you call 'law?' It is whatever shall be done by act of parliament. If you can alter the Civil Government, you have the same power relating to the Discipline of the Church. Though this Oath is only of king Ch. I. yet compare that Oath with all from Magna Charta, and they differ in few circumstances. Under the general word, all sects may shelter themselves. They may tell you of some points they embrace, and are erroneous in the rest, and say, 'you are to maintain us, and all that call themselves Christians.'

Sir *Tho. Littleton.* I am as much for the Religion by law established, as any man. I have not heard any reason yet, why the words, 'as shall be established by law,' may not be in the Oath. The Religion of the Church of England, possibly, is established as no other religion is, by law, and we have found it changed since the Reformation. Every minute ceremony is established by act of parliament, because they would not leave it to the Church to return us to our former errors again. You have added, nor any other, 'but by act of parliament.' The king has an inclination to open the doors of the Church; what harm then is there in those words 'as shall be established by law?' Formerly, it was no great matter what Coronation Oath you had; but this king may say, 'I do not understand what is 'by law.' And if we say, 'by act of parliament shall be,' he may say, 'he never intended to bind you up.' Therefore, I would have it, 'as shall be established by law.'

Mr. *Ettrick.* If I thought this would bind up the legislative power, I should be against it. I would not have it extend to the essential part of Religion, but to ceremonies only. As to the word 'shall be,' I doubt there is something more in the question; several persons call themselves of the reformed Religion, as Quakers, Anabaptists, &c.

Mr. *Coningsby.** I offer you these words, 'the Doctrine of the Protestant Religion established by law.'

Mr. *Hampden*, jun. The Protestants on all sides are like to have war; but this Coronation Oath is the very touch-stone and symbol of your government. It is moved, that the words to be put in be 'established, or shall be established, by law.' If the Doctrine be established by law, it may be overthrown by law again. I hope it is on a better foundation than men can make by law. It is by the law of God, but as for the ceremonies, undoubtedly they are by the law of England. Parliaments have changed many things in the Discipline of the Church. It is the intention of every body, I believe, to keep up the Church and the Hierarchy of England, and I would distinguish betwixt the Doctrine and Discipline. I move, that 'according to the laws for the time being' may be inserted in the Oath. &c.

Major *Wildman.* I am as ready to submit to the Church, as any man. I second the motion, that you will add words that may be restrained to the Doctrine established by God, and Jesus Christ, that the profession of it may be by the laws of the land, and when the king is to swear to the Doctrine established by law, he swears to his power only, and no danger of perjury in it; but whether he swears to all as it is now established, consider whether it is seasonable, some Comprehension or Toleration being intended, and before these Acts are made, to swear so generally. Consider, the next day after the king has taken this Oath, who shall excuse him from his oath, before the house has agreed any alteration? Suppose the parliament be dissolved by the hand of God, or any other act, shall the king, by his Oath, be bound to press all the ceremonies?

Sir *Tho. Lee.* I think a Declaration of our Right is sufficient, and a seasonable time to take any laws away, but not to let the king dispense with them, and they must be observed whilst the laws are in being. I think no man has spoken against the addition, but some for that addition of 'such as are, or shall be, &c.' Many will be for the first with the addition, but against is without the addition. If it be meant no alteration, 'as by law established, &c.' nobody will be for that; but if it be. 'what is, &c. or shall be by law established,' every body will be for it.

Mr. *Finch.* I have attended the debate, and the words moved for, viz. 'established by law, or that shall be, &c.' I have observed, that the reasons do not well agree. It is needless, because, the words being implied, you need not add them. But I think it necessary, that the world may know we mean the established Protestant Religion. You were told, it was implied, and may be sworn to laws not fit to be put in execution. To show that, by these words, we understand the reformed Protestant Religion established by law, I am against the

* Paymaster-General of the Army, in conjunction with Mr. Fox. He attended king William in Ireland in the campaign of 1690, who, on leaving the kingdom, appointed him, and lord Sidney, lord justices. In 1691, he was created lord Coningsby, of Ireland, and in 1704, was appointed, by queen Anne, vice-treasurer, and paymaster of the forces here. In 1716, he was created by George I. a baron, and in 1719, an earl of Great Britain. He died in 1729.

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words 'shall be established, &c.' No man can have any colour but that still a liberty is to consent to any other laws to preserve Religion, and those are, according to his Oath, established by law. They signify no more than to be established, but I am against the words of 'Doctrine that shall be established, &c.' Those words, I believe, will not be received here. The corruptions of the Church of Rome were abolished by law. The Protestant Religion, is a large word of great comprehension, because it looks as if some other Protestant Religion were fit to be established, instead of that we have; I suppose the Doctrine is never to be shaken, and the truth of the Christian Religion. No man of the Church of England but will be ready to comply with the weak conscience of any professor of the Protestant Religion. And no man, from the bishop downwards, is against any comprehension or ease to tender consciences; but this is as if there were another Protestant Religion to be established by law; as if there was intended a new Doctrine, as well as a new Discipline. I would have you retain the first, and leave the latter.

Col. *Birch.* In what the learned gent. has said, I go a great way with him, and when I do not, I shall show the difference. There has been no new Doctrine named, and then most part of his objections are over. When I sat in that chair, in a former parliament, to show you how far the Dissenters were for the Church of England, all, except the Quakers, did generally agree to the Church of England; and if that house had sat, they would have been comprehended. You are told, 'it will as well relate to Discipline as Doctrine,' and I think it does. When people are full of expectation, that we should shut the doors of the Church to all kind of relaxation to such as hope for some! It is said by an hon. person, he would not have the Church troubled.—St. Paul says, 'he knows but in part,' and we are about to make ourselves infallible. Let me remind you what ill success we have had with the Scots, (which put them in Rebellion) when abp. Laud would not have a hair bated of the Discipline of the Church; and what followed upon it? That brought on the war in England, and was mostly the cause of it. But what success have we had these 20 years, since the severe Act of Uniformity and prosecution of Dissenters? None but abatement of rents, and loss of trade; and this is such a stumbling block as we cannot avoid. I would make the Doctrine of the Church firm, and leave the Discipline at large.

Mr. *Finch.* Birch told me, 'he would go a great way along with me,' but he does not one step. I said, 'the Doctrine was the true profession of Christianity,' and he takes offence, as if I made an infallibility. He tells you, 'all sects agreed to the Doctrine, but the Quakers,' and yet danger of altering. All his topics are out of doors, for all agree, that all Protestants ought to be united.

Col. *Birch.* I know my disadvantage. The strength of Finch's arguments, and the smoothness of his discourse, have been known here before.

Mr. *Somers.* The question is, to add the words 'shall be established by law.' I desire the addition, for great regard to the legislature. In the former paragraph, it is 'Statutes, and Laws, and Customs in being,' in the other establishment. He that gives his consent to take away, does not maintain them. Put in 'is, or shall be,' and that takes in every man's consent. It is said, 'that by this, we are going about to alter the government of the Church.' Though the constitution be as good as possible for the present time, none can be good at all times. Therefore, I am for the word 'may,' and that will be a remedy at all times.

Mr. *Pollexfen.* We are all agreed, and I hope ever shall be, to the protestant religion 'established by law.' We desire to consider, whether the latter words shall be added, or not? I see no manner of reason against it. We all agree in substance, but if by the wisdom of the nation it shall be thought fit to alter, we are at liberty to do it. No man that maintains the law, but maintains the whole legislature, which alters and redresses the law from time to time, as there is occasion. We frame an oath, not for ourselves, but for the king, and he ought to be satisfied. The king is tender of what he promises; much more of his oath. As on the one side it will seem broad, as if there was an intention to alter religion, and I am sure they will look much a-squint at us, the greatest reason is, not to dishearten the king, and to put upon him a jealousy, for it must then return from him again.

Sir *Henry Capel.* What makes me rise up is this; of what will be said abroad of making another Church than this of England. It is a tender thing to make a law, but in an oath for another person to take, it is always a rule to express the thing plain. I would know what harm there is in the words, to take in every man's apprehensions? If these words pass in the negative, may not that startle the king, to see it upon our Books as a doubt? I have seen alterations, in this place, of the Church of England, in Ch. 2's time, and shall we bind up ourselves? It is argued, 'this may bring in another church,' but consider how the protestant religion has been invaded, and how this prince is assisted by protestants. But should you put these words narrowly, they may say 'your parliament has limited you to a church unalterable, and will let in nobody.' In this addition, there is no intent of any hurt to the church. If we do not comprehend, and make our entrance broad, at this time, you may create jealousies at home and abroad. I have seen, by court-practices here, one party set up against another, and all done by the popish party. I heard here, upon the Declaration for Liberty, promoted by lord Clifford, both bishops and dissenters against it, and we threw it out. I remember col. Strangways's story of

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two deer that were always fighting, and a rascal deer behind a tree came upon them when weary, and beat them both. Seeing we all agree that the king shall have no hardship put upon him, certainly it will be more explanatory to him, and satisfactory to us, to add the words.

Sir *Tho. Clarges.* I think those words will make the world think we are about to alter the whole religion, the true protestant religion established by law. Perhaps the words may be plainer, but seeing so much weight laid upon them, makes me apprehend that something lies hid, that the presbyterian party, the lean deer, will take it from us both. Whilst a sort of men, that profess the protestant religion, joined with Popery lately in the Declaration, and write, and profess that the penal laws ought to be taken away, now you are making an Oath honestly and plainly, to explain it to the world.

Mr. *Ettrick.* I doubt not but the opinion of the house will have great weight with the king. It would be of great consequence to represent to the king, that a majority of the house is inclinable to alter Religion; as will be implied by this Vote.

Sir *Henry Goodrick.* Let us not impose such a hardship upon the king, especially when we all do intend a comprehension. But how will you tie up the king? This is for the protection of the whole Protestant cause, and no particular party or class. If you put scruples into the king's mind at the first step, this will be a discouragement to him: I move therefore for the words 'are, or shall be established, &c.'

Mr. *Howe.* Has not this deer lain long enough lean in jails? Did not you promise, in the Bishops Declaration, a tenderness to the Dissenters who prayed for the Bishops in their afflictions, as their Martyrs? Shall we disoblige these people? Though I think they will never go over to king James, I hope we shall keep the king's word, and the Bishops. What can be the meaning of this scruple, and to put it into the king, and make these people desperate? Let them help to protect us; indeed we shall have need of them. If you do not add these words moved, it will be thought the king has taken an Oath, without any consideration of what these men have suffered.

Mr. *Godolphin.* All our securities rest upon the king's conscientiousness. I would not put in the words, because I would not leave a doubt, if it is not in the intention of the house to alter the Religion established by law. I would have tender consciences come in at the door, and not pull down the rafters of the house to come in at the roof. Those who stood to the Protestant Religion were the Bishops; those who were against it were those who managed Brent's regulation of Corporations; and I would have no countenance given to them.

Sir *Henry Goodrick.* Let us not take out two words of the Oath, to blast the king, if he will deal candidly with the Declaration, with due regard to the Church of England. He tells you not who put these men upon doing what they did. It is necessary for the king's honour, and the union of all Protestants, to put in these words.

The question being put, Whether the words shall remain in the Oath, 'to preserve the Church, &c. as it is now established by law,' is passed in the affirmative, 188 to 149.

Estimate for the Fleet, and Extract of the Treaty with Holland.] March 26. Mr. Hampden acquainted the house, That he had received from his majesty, according to the desires of the house, in a Letter from the earl of Nottingham, one of the secretaries of state, An Account what Fleet will be necessary for this Summer's Service; also, an Extract of the Treaty between this Crown and the States of Holland, in respect to the obligations of mutual assistance: which were as followeth:

Navy-Office, 23 March, 1688-9.

An Estimate of the Charges of the wages, victuals, and wear and tear, for one year, of 50 ships of war, of the second, third, fourth rates; 15 small ships, and 8 fire-ships (as by a List thereof apart), to be employed in the narrow Seas, and Mediterranean; and also, of one third, 19 fourth, two fifth Rates, and two fire-ships, for the plantations and convoys; according to a Project thereof herewith presented.

	£.
For the Charge of 17,155 men serving in the said 65 Ships of War, and 8 fire-ships, computed at 4*l.* each man a month, is, for one month, 68,620*l.*; and, for 13 months, amount to - - - -	892,060
For the Charge of 4540 men serving in the said 22 ships of war, and 2 fire-ships, at 4*l.* each man a month, is, for one month, 18,160*l.* and, for 13 months, amounts to -	236,080
	£. 1,123,140

EXTRACT of the TREATY between England and Holland, concluded at Westminster the 3rd day of March, 1677-8.

"Article IV.—If his majesty, or the said States General, shall hereafter happen to be attacked, or in any sort whatsoever to be molested, in the possession and enjoyment of the states, lands, towns, places, rights, immunities, and liberty of commerce, navigation, or in any other whatsoever, which his said majesty, or the said States General do or shall have right to enjoy, either by the law of nations, or by Treaties already made, or that shall be concluded; his majesty, and the said States General, upon notice and demand of each other, shall jointly use their utmost endeavours, that such molestation and hostility may cease, and reparations be given for the wrongs or injuries that shall be done to either of the Allies.

"Article V.—And, in case that the said attack or molestation shall be followed with an

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open rupture, the ally who shall not be attacked shall be obliged to come to a rupture two months after the first demand made by the ally already engaged in a rupture; during which time he shall use all his endeavours, by his ambassadors or other ministers, to mediate an equitable accommodation, between the aggressor or disturber, and the party attacked or molested: notwithstanding which, he shall, during that time, give a powerful succour to his ally, according to what shall be agreed upon, by separate Articles, between his said majesty and the said States General: which Articles, although not mentioned in the present Article, shall be kept and observed as if they were here inserted or written. And after the expiration of which term of two months it shall however remain in the choice of the ally engaged in a rupture, whether he will continue to enjoy the benefit of that succour, in case the conjuncture of time and the state of his affairs shall make him prefer it before an open rupture of his ally."

Separate Articles.—I. "The case mentioned in the 5th Article happening, the said king and his successors, and the said States General, shall be obliged to assist each other, as often as they shall be attacked or molested, as is more at large expressed in the said Article, in manner following; that is to say, his majesty of Great-Britain shall assist the States General with 10,000 foot, and the States General shall assist his majesty with 6,000 foot, well armed, under such regiments, companies, colonels, and other officers, as his said majesty, and the said States General, shall think fit, and conceive most proper for such an assistance; and likewise with 20 ships of war well equipped and provided: which succours shall be supplied and maintained at his charge who sends it to the aid of the party attacked. II. When the necessity of affairs shall make it appear, that the succours promised and settled ought to be augmented, the said king and the said States General shall endeavour to come to an agreement about it."

Debate on settling a Revenue on the Princess Anne.] Sir *Tho. Clarges.* You cannot settle a Revenue upon any body. I remember at Oxford there was a Bill to enable the king to settle a Revenue upon the duke of York. I would have the king's Revenue inspected.

Sir *Wm. Williams.* There was a Revenue of 60,000*l.* for the duke of York settled, and the Post-Office. He had power to appoint a Post-Master General by patent; and that is a certain Revenue worth 100,000*l.* per ann. and the Wine Licenses. These were vested in the duke of York. There was care then taken for the maintenance of his dignity. It is fit to consider the Princess, who did more than women in their ordinary course. She forsook her father for the sake of the Protestant Religion, and ought to be made exemplary by us, and a monument for her for ever. I would refer it to a committee.

Mr. *Hampden.* I move very tenderly. In motions of this nature, that are acceptable, we are most subject to errors in the management of it. She may be in want of money, but you cannot refer money to a private committee. But if there be any way to propose, I would hear it. When the way of raising the money is found out, that is the proper time to have it moved. I remember at Oxford, when the money was granted for the duke of York, there was grumbling.

Mr. *Harbord.* Something has been said that reflects upon the king, as if the Princess was in want. When the king was at the Treasury, he said, 'he would have the Money all go for public uses.' For the Fleet, the queen Dowager, and the Princess Anne, these were the uses, and they are taken care for.

Sir *Henry Capel.* You do two great things in taking care for this Princess, of great honour, and virtue, and support to the Protestant Religion, Though there be no precedent for a private committee to consider of Money, I would not have this debate go off without some words in your question, viz. 'That when the Revenue is stated, the Princess may be considered.'

Mr. *Boscawen.* I would have the Princess have the Revenue of the Post-Office, but not the Office; that ought to be in the crown, for the inspection and management of letters.

Resolved, "That, when the matter of the Revenue shall come under consideration, the house will then consider of settling a Revenue upon the Princess Anne of Denmark."

Debate on the Coronation Oath.] March 28. The Bill for establishing the Coronation Oath was read the third time.

Mr. *Pelham* offered a Proviso to the Bill by way of Rider.—I am sorry for the heats the other day. What I offered then was, I thought, a service to the king and the Church of England, in which religion I was bred up. If this Proviso I shall now offer, shall meet with a general acceptation, I shall be happy. If not, I shall sit still contented. The Proviso shows, 'that you do not intend to prevent the king to give his consent to change any form, or ceremony, now established, so as the doctrine and discipline, &c.'

The Proviso was as follows: "Provided always, and be it hereby declared, That no Clause in this Act shall be understood so, to bind the kings or queens of this realm, as to prevent their giving their royal assent to any Bill, which shall be at any time offered by the lords and commons, assembled in parliament, for the taking away or altering any Form or Ceremony in the established Church, so as the Doctrines of the said Church, a public Liturgy, and the Episcopal Government of it, be preserved."

Sir *Christ. Musgrave.* There is no occasion for this Proviso. It cannot be imagined, that any Bill from hence will ever destroy the legislative power. Therefore, there being no need of this proviso, pray lay it aside.

Mr. *Garroway.* The other day, you accepted not of an Amendment offered, because

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it was said, 'what was offered was implied.' Others thought not, because not expressed. The exception against this Proviso seems as if you had not power without it, by the legislative authority, to alter any thing in the Church. This Proviso puts people in hopes of grace and favour, and I would have it pass.

Sir *Henry Goodrick*. This Proviso is brought in with a good and sincere intention; it carries an aspect of healing our divisions. Was here any thing to invalidate any particular thing, whereby the legislative power might be restrained, I should not concern myself. We are all of a mind, and as this is for composing and healing, and does so fully preserve the Church Doctrine, it relating to Discipline, and being only a Declaration as to Discipline, I would give it a second reading, and make it part of the Bill.

Mr. *Finch*. I am against this Proviso, when I consider it will not have the effect proposed, but quite the contrary. The Proviso comes in to help the Clause in the Oath, 'to maintain the Religion established by law.' Now, these words 'established by law' hinder not the king from passing any Bill for ease of Dissenters, and when this is passed, the Oath remains. The words now are not established by law indefinitely. This Proviso makes the scruple, and gives the occasion for it. What says the Proviso? Unless it were in the king, 'not bound to give any consent to alter the laws, &c.' When the scruple is raised, the Proviso does not clear it. When the king has taken the Oath to maintain the Protestant Religion, 'as established by law,' and not 'as shall be established,' this Proviso does not at all cure the Oath, when he has sworn to establish it, &c. That gives occasion to the scruple; and I am against the Proviso.

Sir *Wm. Williams*. If this Proviso improves a scruple in the king rather than removes it, I am against it; but if it clears the doubt, I am for it. When the king swears to govern according to law, if a relaxation to Dissenters, the king may do it by law. Says the king, 'I make a doubt, whether I do not swear to keep all the laws unrepealable;' therefore, say we, though the law be so by implication, the lawyer cannot remove any scruple; therefore is there any hurt to speak plainly? This is *argumentum ad hominem*, not *quod hoc* or *hunc*. We are to make the Oath explicit, without scruple. I see no manner of danger in the Proviso; it shows special regard to the Church of England. The Doctrine is not to be altered: all the Bishops in the world cannot do it. Though they differ in circumstances, men will differ; it is lawful and necessary sometimes, that the truth may appear. I take it to be for the honour of the Church of England, to comply with any ceremony, or none. I am for the Proviso.

Sir *Rob. Sawyer*. This is the first Proviso of this nature that ever was in any bill. It seems to strike at the legislative power. The king has both divines and lawyers about him, who will clear him the scruple. It will create such a doubt: whatever the pretence is, it cannot satisfy the king, only those without doors. Therefore to show a thing at this time of day, to make a question of that consequence—I would lay it aside.

Sir *Rob. Cotton*, of Cambridgeshire. Though the Proviso looks well and healing, yet it seems to imply a defect, not able to alter laws, as occasion requires. This, instead of one scruple raises more; as if you were so bound up to the ecclesiastical government, that you cannot make any new laws without such a Proviso.

Sir *George Treby*. Since this Proviso is tendered, I am for retaining it. Perhaps now it is brought in, it is more necessary to retain it, than to have brought it in at first. It is agreed to be the sense of the house, that these words, &c. do not bar the king from making any alteration, &c. When you say 'the Protestant Religion, &c.' it must be with these ceremonies, and government, by law established. Therefore that you mean the manner and form of the government is alterable, is agreed by all. You will find, in the Preface to the Common Prayer-Book, 'that all Ceremonies are indifferent and alterable,' and this Proviso is, that alterable things may be altered; and no hurt done, if both houses agree. To bind up your freedom in any thing here, you yourselves would call closeting. The late king James had made me more offers than I will speak, of preferment, if I would consent to dispense with the penal laws and Test. I used all the arguments I could to dissuade him against it. He said, 'I was very stiff.' I told him 'I would not engage to take away laws nor to keep them, but I desired to come into the parliament with my freedom.' No man ever doubted that the king was bound by any Oath not to alter the Church Government. King Ch. 1. thought himself bound by his Coronation Oath not to alter Episcopacy, the government being in Episcopacy; and therefore this is no novelty, to raise such a scruple, which this Proviso may fully quiet, and satisfy the scruples of tender consciences, and such as know not our laws. You yourselves made an Act for declaring this a Parliament, when you were satisfied, and excepted privilege of parliament in the Habeas Corpus, &c. It is said, 'This Proviso is useless, and you will not have your ends.' This Proviso does not absolve the king from his Oath: but the Oath is part of the Act, and you explain that Oath. It is said, 'It shall not be understood to alter Episcopacy in the Church Government;' those who love it, would be glad to see it a monarchical government of episcopacy. This will amount to no more than such alteration as the parliament has always done, and the Church has been preserved in so doing. When we are dead and gone, all these debates will be in the air, and a greater scruple remain. We have the use of words and writing, to explain our meaning; and it being agreeable to your own meaning, pray pass it.

Mr. *Sachverell* I have attended the debate, and I think it does not agree with that the other day, when every body did leave the

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ceremonial part of Religion to the law, so the doctrinal part were preserved. It was for the words 'are, or shall be, by law established.' I did apprehend, and yet do, that point is a scrupulous matter, and may be a doubt to the king. I was one that did not see so clear as others. I cannot see why they should deny us an explication of our Oath. Learned gentlemen do doubt: I am not so learned as they, and therefore must doubt. Certainly they have some other reason than what they tell us, or else some latent sense that hereafter they may explain. The Proviso is no more than what we said, we mean by it, and they said, they meant by it, the other day. I am for it.

Sir *Joseph Tredenham.* I am of opinion, that all ease and favour should be shown to tender consciences, consistent with the safety of the nation, but I know not how this Proviso will answer all expectations. I cannot imagine any scruple in the king to pass this law. It is granted by all, that by 'law,' is meant what is in the legislative power. When the king sees this Proviso in the Act, for the Coronation Oath to bind him up without it, will it not make alterations in the government which may affect all laws?

Sir *Tho. Lee.* I was the other day of opinion, that the Oath might have been plainer by the other words offered; and now here is a Proviso to explain it. I am afraid the words, as penned in the Oath, do too much bind up the legislature. The Oath obliges the king to maintain the Religion established by law. The Proviso says, 'The king shall be always at liberty, and, by act of parliament, Ceremonies may be altered at any time.' All Oaths are taken in the sense of the imposer, which restriction is not to be exercised but in certain cases. It will, I fear, creep in, that other laws cannot be made without such a Proviso. Therefore I would lay it aside.—The Proviso was withdrawn, and the Bill passed.*

* The form of the Coronation Oath is thus: *Q.* 'Will you solemnly promise and swear to 'govern the people of this kingdom of England, 'and the dominions thereto belonging, according to the statutes in Parliament agreed on, 'and the laws and customs of the same?' *A.* 'I solemnly promise so to do.'—*Q.* 'Will you, 'to your power, cause law and justice in mercy 'to be executed in all your judgments?' *A.* 'I 'will.'—*Q.* 'Will you, to the utmost of your 'power, maintain the laws of God, the true 'profession of the Gospel, and the Protestant 'Reformed Religion, as by law established? 'And will you preserve unto the Bishops and 'Clergy of this Realm, and to the churches 'committed to their charge, all such rights and 'privileges, as by law do or shall appertain 'unto them, or any of them?' *A.* 'All this I 'promise to do.'—Then the King or Queen, laying his or her hand upon the Gospels, shall say, 'The things which I have here be-'fore promised, I will perform and keep.

'So help me GOD.'

This day, the commons passed a Bill for naturalizing Prince George of Denmark.

April 1. The commons resolved nem. con. That a Committee be appointed to bring in a Bill of Comprehension.

The Address of Thanks for the king's Message relating to the Bill of Indemnity, having been presented to his majesty, sir Wm. Williams acquainted the house that his majesty was pleased to give a most gracious Answer, to the effect following: "Gentlemen, I am pleased with doing what you like; and do expect you will farther proceed to expedite the Indemnity and Oblivion which tends so much to an Union; I shall be always forward to do my part in this, and all things, that may unite my people."

Bill of Comprehension.] April 4. The house of lords entered into a Consideration of the Report of the Amendment in the Bill for uniting their majesties Protestant Subjects;* and

* "Nothing more strongly evinces the desire of William to abolish religious and political distinctions, than the variety of measures he devised, in order to accomplish that end, and his perseverance in prosecution of them, notwithstanding the frequent repulses and defeats he experienced. Disappointed in his plan of raising Protestant Dissenters to a capacity of civil employment, his only hope was to enlarge the pale of the Church, and to obtain such moderate and rational concessions from her, as might subdue the scruples of the Dissenters, and allure them into her bosom. For this purpose a Bill of Union and Comprehension was introduced in the house of lords, formed upon the model of that which had been proposed to allay the heats of parties during the dependence of the Bill of Exclusion. The principle of this measure was so rational and liberal, that its enemies durst not hazard any attack or objection against it, upon the foot of argument. A preliminary question however existed, before any progress could be made in this Bill, and involved difficulties, which afforded but unpromising hopes of its success: who were the judges competent to specify those concessions, which might prudently and safely be offered upon the part of the Established Church, for the purpose of reconciling and uniting the Dissenters? An exclusion of the laity was invidious, and not only deviated from the precedents established by the Reformation, but struck at the foundation of the Protestant Religion, which appealed to the understanding of mankind at large, as qualified to decide concerning the doctrines of faith. Nor were the Clergy, if the business was committed solely to them, wedded to the faith and ceremonies of the Established Church, likely to consent to any liberal and effectual plan of union, jealous of the favour of the king, many of them waited the result of this Bill with a suspicious vigilance; and it was believed, that they would not have been dissatisfied, if any innovation upon forms, or any encroachment upon their

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upon debate the question was put, Whether to agree with the Committee in leaving out the Clause about the Indifferency of the posture at receiving the Sacrament? The Votes were equal,* and therefore, according to the antient rule in the like case, it was carried in the Negative. The next day the lords resumed the debate of the Report of the said Amendments, particularly of the Clause concerning a Commission to be given out by the king, to Bishops and others of the Clergy: and it being proposed whether the Laity should be added, the Votes were equal on both sides, so it was likewise carried in the Negative.

Protest thereon.] On this occasion leave was given for any lords to enter Dissents; accordingly, these lords following do enter their Dissents in the Reasons ensuing:—1. "Because the Act itself being, as the preamble sets forth, designed for the peace of the state, the putting the Clergy into the commission, with a total exclusion of the Laity, lays this humiliation on the Laity, as if the Clergy of the Church of England were alone friends to the peace of the state, and the Laity less able, or less concerned to provide for it. 2. Because the matters to be considered being barely of human constitution, viz. the Liturgy and Ceremonies of the Church of England, which had their establishment from the king, lords spiritual and temporal, and commons, assembled in parliament, there can be no reason why the commissioners for altering any thing in the civil constitution should consist only of men of one sort of them, unless it be supposed that human reason is to be quitted in this affair, and the inspiration of spiritual men to be alone depended on. 3. Because, though, upon Romish principles, the Clergymen have a title alone to meddle in matters of Religion, yet with us they cannot, where the Church is acknowledged and defined to consist of Clergy and Laity; and so those matters of religion which fall under human determination, being properly the business of the Church, belong equally to both; for in what is of divine institution, neither Clergy nor Laity can make any alteration at all. 4. Because the pretending that differences and delays may arise by mixing Lay men with Ecclesiastics, to the frustrating the design of the Commission, is vain and out of doors; unless those that make use of this pretence suppose the Clergy-part of the Church have distinct interests or designs from the lay-part of the same Church; and this will be a reason, if good, why one or other of them should quit the house for fear of obstructing the business of it. 5. Because the Commission being intended for the satisfaction of Dissenters, it would be convenient that Lay-men of different ranks, nay, perhaps of different opinions too, should be mixed in it, the better to find expedients for that end, rather than Clergymen alone of our Church, who are generally observed to have very much the same way of reasoning and thinking.—6. Because it is the most ready way to facilitate the passing the Alterations into a law, that lay-lords and commons should be joined in the commission, who may be able to satisfy both houses of the reasons upon which they were made, and thereby remove all fears and jealousies ill men may raise against the Clergy, of their endeavouring to keep up, without grounds, a distinct interest from that of the Laity, whom they so carefully exclude from being joined with them in consultations of common concernment, that they will not have those have any part in the deliberation, who must have the greatest in determining.—7. Because such a restrained Commission lies liable to this great objection, that it might be made use of to elude repeated promises and the present general expectation of compliance with tender consciences, when the providing for it is taken out of the ordinary course of parliament, to be put into the hands of those alone who were latest in admitting any need of it, and who may be thought the more unfit to be the sole composers of our differences, when they are looked upon by some as parties. —Lastly, Because, after all, this carries a dangerous supposition with it, as if the Laity were not a part of the Church, nor had any power to meddle in matters of Religion; a supposition directly opposite to the Constitution both of Church and State, which will make all alterations utterly impossible, unless the Clergy alone be allowed to have power to make laws in matters of Religion, since what is established by law cannot be taken away or changed, but by consent of laymen in parliament, the Clergy themselves having no authority to meddle in this very case, in which the Laity are excluded by this Vote, but what they derive from Lay-hands. (Signed) Winchester, Mordaunt, J. Lovelace."

"I dissent for this and other Reasons: Because it is contrary to three Statutes made in the reign of Hen. 8 and one in Edw. 6, which empowers 32 Commissioners to alter the Canon and Ecclesiastical Laws, &c. whereof 16 to be of the Laity and 16 of the Clergy.

(Signed) Stamford."

April 9. The king went to the house of peers, and gave his royal assent to an Act for establishing the Coronation Oath.*

authority, had furnished a pretext for making a schism in the Church. Indulgent to their prejudices, the lords agree, that the Clergy alone should judge of those articles which were to be proposed as a basis of union with Dissenters. The very day the Bill was sent to the commons, they resolved upon an Address to the king, to be drawn up in terms which anticipated the discussion of its merits, and spread an alarm of the danger of the Church." Somerville, p. 275.

* Content 28, Proxy 1, in all 29. Not Content 27, Proxies 2, in all 29.

* The day appointed for their majesties Coronation drawing near, his royal highness Prince George of Denmark was created baron

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The King and Queen crowned.] April 11. The Ceremony of the Coronation was performed in the Abbey after the usual forms; the far greater number of the disaffected peers, and among the rest Dr. Lamplugh, who had been made abp. of York by king James, for running away from Exeter, on the Prince of Orange's approach, waving their scruples, for the sake of seeing the shew. By a Clause in the Coronation-Act, it was left in the king's breast to be crowned either by an archbishop or bishop; and Sancroft persevering in his resolution not to acknowledge a Settlement which he had no hand in making, his majesty chose the bishop of London to officiate in his room. It is remarkable, that the commons, who had given his majesty the Crown, were not permitted to assist in putting it on; the Speaker on the fifth giving the house to understand, 'That his majesty had appointed a Gallery for their reception in the Abbey, and another in Westminster-hall, and a dinner to be provided for them in the Court of Exchequer; but that his majesty did not think it altogether convenient for the house to bear any part in the procession.' On the next day after the Coronation, they had however a procession of their own; for the whole house, in a full body, walked from Westminster-hall to the Banquetting-house, to congratulate their majesties on that happy occasion, and were most graciously received.*

The Speaker's Congratulatory Speech to their Majesties upon the Coronation.] April 13. The Speaker of the house of commons acquainted the house, That, upon their attendance on their majesties yesterday, to congratulate them upon their Coronation, he spoke to them as followeth; viz.

"Your most loyal and dutiful subjects, the commons of England, assembled in this present parliament, having, to their unspeakable joy, seen your majesties placed upon the imperial throne of this kingdom, they have desired access at this time to your royal presence, humbly to congratulate your majesties upon this occasion, and to wish your majesties a long and prosperous reign, with all the blessings that ever did attend a crown.—We are all sensible, that your majesty's greatness is the security of your subjects: it is from your power that we derive to ourselves an assurance of being defended from our enemies; and from your justice, that we expect a full enjoyment of our Laws and Liberties: but that which completes our happiness, is, the experience we have of your majesties continual care to maintain the Protestant Religion; so that we can no longer apprehend any danger of being deprived of that inestimable blessing, either by secret practices, or by open violence."—*To the King.* "May the same Divine Providence, which hath hitherto preserved your maj. in the greatest dangers, and so often given you victory over your enemies, still crown your undertakings with success."—*To the Queen.* "And may those unparalleled virtues, which adorn your majesty's royal person, be the admiration of the present age, and an example to the future.—And may the lustre of both your names so far outshine the glory of your predecessors, that the memory of their greatest actions may be forgotten, and your people no longer date the establishment of their Laws and Liberties from St. Edward's days, but from the most auspicious reign of king William and queen Mary."

The King's Answer.] His majesty was pleased to answer to the effect following; viz.

"Gentlemen; We return you our hearty thanks for the kindness and respects that you have, upon all occasions, shewed to both of us: we shall take care, to the best of our power, of all things that conduce to the good of the kingdom; and I doubt not, but by God's assistance and yours, we shall be able, in a short time, to make you a flourishing people."

Address of both Houses to the King, thanking him for his Care of the Protestant Religion, and desiring him to call a Convocation.] April 19. Both houses presented the following Address*, to the king:

of Ockingham, earl of Kendal, and duke of Cumberland: the marquis of Winchester was made duke of Bolton; the earl of Danby, marquis of Carmarthen; Monsieur Bentinck, baron Cirencester, visc. Woodstock, and earl of Portland; visc. Fauconberg, earl of Falconberg; visc. Mordant, earl of Monmouth; the lord Montagu, viscount Mount-Hermer, and earl of Montagu; the lord Churchill, earl of Marlborough; Henry Sidney, esq. baron of Milton, and viscount Sidney of Shepney in the county of Kent; viscount Lumley of Waterford in Ireland, viscount Lumley of Lumley Castle in the County Palatine of Durham, and earl of Scarborough; the viscount Cholmondley of Kellis in Ireland, baron Cholmondley of Witchmalbanck, alias Namptwitch in Cheshire. Mareschal de Schomberg (who, with the earl of Devonshire, had already been elected Knight Companion of the most noble Order of the Garter) was naturalized by act of parliament, and soon after created a duke. * Ralph.

* "By this Address it appears, that a party was now beginning to be formed, that pretended great zeal for the Church, and expressed their apprehensions, that it was in danger. This they plainly insinuated, by their praying the king to continue his care for the preservation of the Church, hinting at the same time, how dangerous it would be for him to do otherwise. These men, as they went heavily into the Toleration, which was the ease they here promised to give the Dissenters, so they were much offended with the Bill of Comprehension, as containing matters relating to the Church, in which the representative body of the Clergy had not been so much as advised with; and therefore it was, that they so hastily petitioned for a Convocation, under a notion that the business would be accomplished with-

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"May it please your majesty; Your majesty's most loyal and obedient subjects, the lords spiritual and temporal, and commons, in parliament assembled, do, with utmost duty and affection, render to your maj. our most humble and hearty thanks, for your gracious Declaration, and repeated assurances, that you will maintain the Church of England established by law, which your maj. hath been pleased to rescue from that dangerous conspiracy that was laid for her destruction, with the hazard of your royal person.—And her zeal against Popery having appeared at all times, and more especially of late, beyond the contradiction of her most malicious enemies; it being likewise evident that her loyalty hath always been unquestionable, and that the misfortunes of the last reign can be attributed to nothing more than the endeavours that were used to subvert it:—We therefore humbly pray, your maj. will be graciously pleased to continue your care for the preservation of the same, whereby you will effectually establish your throne, by securing the hearts of your majesty's subjects within these your realms, who can no way better shew their zeal for your service, than by a firm adherence to that Church, whose constitution is best suited to the support of this monarchy. We likewise humbly pray, that, according to the ancient practice and usage of this kingdom in time of parliament, your maj. will be graciously pleased to issue forth your writs, as soon as conveniently may be, for calling a Convocation of the Clergy of this kingdom, to be advised with in ecclesiastical matters; assuring your majesty, it is our intention forthwith to proceed to the consideration of giving Ease to Protestant Dissenters."

The King's Answer.] April 20. The following Message from the King was delivered to both houses:

"W. *R.* Though I have had many occasions of assuring you, that I will maintain the Church of England as by law established; yet I am well pleased with every opportunity of repeating those promises; which I am resolved to perform, by supporting this Church, whose loyalty, I doubt not, will enable me to answer your just expectations.—And as my design in coming hither was to rescue you from the miseries you laboured under; so it is a great satisfaction to me, that, by the success God has given me, I am in a station of defending this Church, which has effectually shewn her zeal against Popery, and shall always be my peculiar care; and I do hope the ease you design to Dissenters will contribute very much to the Establishment of this Church; which therefore I do earnestly recommend to you, that the occasions of differences and mutual animosities may be removed; and, as soon as conveniently may be, I will summon a Convocation."

Ordered, That the Address of both houses, with this his majesty's Answer, shall be printed and published.

Debate on the Lords' Amendments of the Bill for abrogating the Oaths of Allegiance and Supremacy.] April 19. The commons went into a debate on the Lords' Amendments to the Bill for abrogating the Oaths of Supremacy and Allegiance. On the Clause for exempting the Bishops, &c.

Sir *John Thompson* said, This Amendment, of the king's tendering the Bishops the Oaths, &c. brings all the odium upon the king, as if the king suspected their loyalty to whom he causes it to be tendered.

Sir *Tho. Dyke.* The odium will be on the Council, and not on the king. All acts of grace are from the king, and he must be advised by his Council; and they must suspect the persons, and not the king.

Mr. *Ettrick.* If the king see them dangerous, he may immediately offer the Oath, &c. to them; and that is the effect of the lords Amendment.

Sir *Tho. Lee.* Pray make us well understand this Amendment. The consequence does not differ from the lords, 'That it may be tendered before the 1st of August.' But I would know how these stand together; whether agreeing with one Amendment does not draw the consequence of asserting the future Clauses?

The *Speaker.* If the king issues out a special order, before the 1st of August, for taking the Oath, &c. they are obliged to take it before that time.

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out one. The king, who was not pleased with this Address as perceiving the tendency of it, did not forbear intimating in his Answer, that he thought he had already given them sufficient assurances of his intentions to support the Church. The answer was not returned immediately, but sent the next day by the earl of Nottingham. Notwithstanding this Answer, no farther progress was made in the Bill. Those who had moved for this Bill, and afterwards brought it into the house, acted a very disingenuous part. For while they studied to recommend themselves by this shew of moderation, they set on their friends to oppose it; and such as were very sincerely and cordially for it, were represented as the enemies of the Church, who intended to subvert it. Nor was this bill supported by those who seemed most favourable to the Dissenters. They advanced it as a maxim, that it was fit to keep up a strong faction both in Church and State; and they thought it was not agreeable to that, to suffer so great a body as the Presbyterians to be made more easy, and more inclinable to unite to the Church. They also thought, that the Toleration would be best maintained, when great numbers should need it, and be concerned to preserve it. So the design of a Comprehension being zealously opposed and but faintly promoted, fell to the ground. However, the king was so desirous this affair should succeed, that it was brought on again the next session in a more formal manner, though with no better success." Tindal.

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Mr. *Sacheverell.* This seems to me to be a snare. If any sort of gentlemen, be they who they will, may pay no allegiance to the king, I am against it. Your Bill, as it is penned, is to enjoin all persons to take the Oaths; and this Amendment provides, 'That if an order of the council, by commission from the king, &c.' This cannot be a riding commission, all England over, to give the Oaths; then, if it be not a separate commission, which must have time of return—and then these persons go out of the country, and so are free from taking the Oaths for ever—'By Order of Council'—They will have time to shelter themselves, under the king's name, which ought not to be countenanced. No person shall be concerned in it, but so far as the council shall advise; and then it is in their power, whether to execute your act, or not. So, unless some reason be assigned, why the king should suspect, all cannot be thought so; and if for particular persons only, your act is illusory.

Mr. *Carter.* All the subjects of England are under one king; and there is but one allegiance, according to our law. It was suggested here, 'That the Bishops had taken an oath to king James, and therefore their consciences would not bear it to swear it to king William;' and I think that the strongest reason why it should be tendered them. We must not set two heads on one Church, and divide the Bishops. Some have taken it, and some not; and as to the Government, we have taken it; how can we be true to the king, if all do not? We have done it, and they ought to do it. Some are to leave their offices on refusal. These men have six months time given them by the lords Amendments. The consequence will be, we throw dirt in our own faces, by doing it; as we are obliged to it, so I hope all else shall be obliged. A Popish head was thought not safe for the Government; it will be a greater monster to set up two heads of the government. Consider how unkind this will be to the king. He swears to us, in his Coronation-Oath; and shall they not pay their allegiance to the king? I would retain what we did before in the Bill.

Sir *Joseph Tredenham.* Carter is much mistaken in the question; it not being, whether the Clergy shall take the Oath or not? if it were so, I should be of Carter's opinion; it is only, whether you will agree with the lords Amendments? It is only, whether there shall be a trust in the royal dignity, or no? And a question only, that the king shall have power to require the Clergy to give a testimony of their loyalty. If any of the clergy own any other power, that it may be in the king's power to make trial of them. You are told, 'This will put a hardship upon the king.' If trust be a hardship, the crown is a hardship. The severity is not in the crown, but in you. Perhaps, in another reign, it may not be safe to lodge this power in the crown; it is safe now: and I would agree to the lords Amendment.

Mr. *Howe.* By what I find, by his motion, the stress lies in the commission: that Clause is not to impower the king to dispense totally with the Oath, but to tender it before the time. The bait seems to be, putting power into the king; but I am not for either giving the king new power, or taking any from him. I cannot think but all should take the Oath; and how can they offer oaths to others, which they will not take themselves! And they so tender, that none but themselves shall be dispensed with. It is no hardship for a man to be put out of an office, if he be not capable of it. If they will not swear allegiance to this king, they owe it to another; therefore I would have no power left to bring in king James.

Sir *Tho. Littleton.* I differ from Tredenham: it is not such a great trust. It might, by his argument, have as well been inferred, that the king should give it to all his subjects, if the Bishops, in this case, were not tenderly used. In nine months, king James will either be here, or never; and therefore I am against the Amendment.

Mr. *Finch.* Notwithstanding the reasons I have heard against the Amendment, some of them ought not to have regard here. Now you make a new law, the question is, how you will extend that new law? All persons in office must take these Oaths; the Amendment is not to excuse them from the oaths, but a commission from the king to give these oaths sooner, if he please. Disagreeing with the lords is to oblige all men, within that time, without distinction, to take them. In the year 1649, when the Engagement was enacted, none were obliged to take it but those of the clergy, who were hereafter to come into livings. You are told, 'In that time, king James will be here, or not expected.' I hope you will not imagine, that these persons have any expectation of king James, or that they have any worldly consideration; they are not fond of it, and have sufficiently suffered for it. If you are not secure without this, consider whether the punishment's falling upon some persons will make you more secure.

Sir *Tho. Lee.* I am surprized that gentlemen are so much for the prerogative of the king. You are making a new law; and it is but compounding for a new one; and before this change, I know, no subject was exempted from the Oath of Allegiance. This instance given you (by Finch) was of the Engagement in 1649. I remember the dean of Christ-Church was in it, and was turned out for refusal of the Engagement; and those times did not think themselves secure. And now, if you think the laity are only obliged to allegiance, it is strange. I am sorry that subjects should have more consideration for their fellow-subjects than for the king. It is not so long since some would have king William's name only in the Regency, and king James to stand king. The Bishops may say, this is for the good of the Church, that they should have liberty to sit in the lords house, but not take the Oaths, thinking them-

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selves obliged, by their oath, to king James. Therefore I would not agree to the Amendments.

Sir *Wm. Williams.* How can you make this law equal? You put it in the power of the king; if he order it not, they shall not take it; and if all persons may be under the same qualifications, your law then is equal. The consequence must proceed from principle, or humour; if from principle, it must proceed from other oaths that they have taken; and it is part of your security, that the old oaths be abolished; and what can resist an act of parliament? Shadows follow bodies; can you absolve me of my Oath of Allegiance and Supremacy? The same power that created those, has abolished them. But the Bishops say otherwise; they are so strait-laced, and straitly bound, by their Allegiance to king James, that this Act cannot absolve them. By this dispensation of the Clergy, instead of uniting the people, you separate them. I am for all persons to take the Oaths, and no encouragement given to any to separate from the rest of the nation.

Sir *Robert Cotton.* The question is now, in a new government, whether we shall make distinctions? I could wish all sorts of clergy would take the Oaths. By this Commission, &c. the king may have such effectual security as may prevent any mischief that may ensue. I hear talked of a regency, in king William, mentioned in favour of king James; but I cannot think that, when you have done all things that have made you irreconcileable to king James, you will think of calling him back again. But, at this time, to have any disagreement with the lords would be fatal in the consequence. Therefore I would agree to the Amendments.

Mr. *Godolphin.* The question is not, Whether the Oaths shall be taken, or no; but, Whether the king shall have power, by commission, to tender them, &c.? We are running into divisions here, to prevent divisions in the Clergy. In Henry 8th's time, there were several limitations of the crown, and the oaths were forward and backward. I would agree.

Mr. *Paul Foley.* The lords have not only differed from us, but from themselves. This point has been twice settled in the house already; and I hope the nobility of the kingdom deserve favour and consideration, who have been turned out of their places, as well as the Bishops. We ought to take care, that there be no persons in the kingdom, but such as will submit to the government.

Mr. *Boscawen.* I am suspecting my own understanding in law, when Sawyer asserts a thing. I desire that the statute of the Oath of Allegiance may be read.

Col. *Birch.* The statute ought to be read, when a gentleman desires it; and it must, for it is part of his speech. [It was read.]

Mr. *Boscawen.* It is apparent, by this law, that there is no distinction betwixt ecclesiastical persons and others. King James 1. came new from Scotland, and this law was to make a recognition of his government. It is certain that some scruples they make, either that they are obliged to the former king, or that this person is an usurper; and, by consequence, you are no parliament, he is no king. These are the plain consequences; and then, whether you will give this indulgence, or not? The leaven will run through the whole Clergy. Upon consideration of the whole, I make this to be tripping up the heels of the whole government. If the Clergy have obligation to king James, they are bound to assist him when opportunity shall serve; and when no opportunity, they are content to sit still, and when there is, they will tell you more. This is the effect of the lords' Amendment; and I would not agree.

A Committee was then appointed to draw up Reasons to be offered at a Conference.

Conference on the Bill for abrogating the Oaths, &c.] April 20. Sir George Treby reports, from the committee, the Reasons for the commons not agreeing with the Lords' Amendments; which were agreed to by the house, and are as follows:—"1. Because it has been the policy of the common law, and statute law, to oblige men to swear to the king. 2. Allegiance is the common and necessary duty of all subjects, and is most strictly to be required of archbishops, bishops, and those who have ecclesiastical dignities, benefices, or promotions, in regard they are highly intrusted in the administration of the government, draw great dependencies, and are exemplary to the rest of the people; and several of them are, by law, to administer the Oaths of Allegiance to other persons. Allegiance is also strictly to be required of all governors, professors, and fellows in universities, and school-masters, because to them the education of the youth of the kingdom is committed; and therefore they ought to be persons of known loyalty and affection to the government. 3. The taking the Oaths publicly, in open court, will better manifest Allegiance, than the taking them privately, before persons appointed by Order in Council; and will be much more safe for the persons who are obliged to take the Oaths. 4. The best and most certain means to have the Oaths taken, is to impose it upon the persons concerned to tender themselves to take the said Oaths under penalties; but if the Oaths are not to be required, unless tendered, the said persons might by absence, and otherwise, avoid the taking them with impunity. 5. The Clause which the commons sent to your lordships, allows more favour to the archbishops, or bishops, and those that have ecclesiastical dignities, benefices, or promotions, than to any lay peers, or other persons having offices and employments; and is more gentle in the penalty than the statutes heretofore made in like case. 6. It is unreasonable and unsafe to distinguish the archbishops, bishops, and persons having ecclesiastical dignities, benefices, or promotions, and such as are intrusted with the education of youth, from the rest of the subjects, in the declaration of their allegiance; and may

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tend to make a division in the kingdom; and may raise and countenance faction, both in Church and State. 7. It may tend to expose the king's person and government to hatred and danger, and occasion a general discontent."

A Conference was desired, where the above Reasons were delivered.

Protest against not agreeing with the House of Commons.] After this, the house of lords was adjourned into a committee, to debate and consider of the Reasons of the house of commons. The house being resumed; the earl of Bridgewater reported, That after a long debate in the committee, it came to this question, "Whether to agree with the house of commons?" It was carried in the negative. Then the question was put, "Whether this house should agree with the committee?" It was resolved in the affirmative.—Leave was given to such lords as would, to enter their Dissents; and accordingly these lords following do enter their dissents, in these Reasons ensuing:

"The Bishops and Clergy not to be excused from taking the Oaths of Allegiance: 1. Because, by the same reason that any part of the subjects may be excused from giving assurance of their allegiance and fidelity to the government, all may; and the government will be left perfectly precarious. 2. Because the Clergy, and especially the Bishops, receiving their benefices, dignities, and preferments, from the public, ought to be the first and forwardest, both by their doctrine and example, to teach others their obligations to be zealous in preserving the government as well as religion established by law. 3. Because the presence of scruple and tenderness of conscience can have no other foundation in the present case, but the supposition of some former obligation; no one ever scrupling to give all manner of pledges of his allegiance, where he thought it due: those therefore that scruple, ought the more to be pressed, and the sooner brought to the Test; unless any one can think it reasonable the government should favour, encourage, and indulge, those who will not give the usual security that they are not enemies to it. 4. Because, however the king may, that part of the people who have sworn allegiance to him cannot have reason to be satisfied when they see another part of the nation under looser obligations to the government than they; nothing being so apt to raise fears, jealousies, and disorders, in a state, as unnecessary distinctions, or any cause of suspicion of want of unanimity or fidelity amongst themselves in the great concernments of the kingdom, especially in the titles of crowns, and at such time as this, when we are entering into war with a potent enemy, who openly owns and supports a contrary title. 5. Because it will discourage our Allies, and give them a lower opinion of our king's interest in his people, or authority over them, than was for the advantage of this kingdom in particular, or the Protestant Religion through Europe; when they should understand that those who were looked on to be the directors of other men's consciences, could not bring their own to acknowledge him in the first and fundamental act of obedience; and what must they conclude, when they heard the parliament had dispensed with such an exemplary part of the nation in a business of such moment? 6. Because it might be of ill consequence, if the parliament should set any thing like a mark of disaffection on that sacred order, by allowing them now a dispensation from taking a very moderate Oath of Allegiance, who, in a late reign, were too forward and zealous by Addresses, preaching and promoting new Oaths to carry loyalty and obedience to monarchy, to a pitch unknown to our antient laws, or former ages. 7. Because there being no other assurance of any one owning himself subject to any government, but either acting under it, or swearing to it, it was very necessary, that those who forbear to act, should, of all others, be most strictly required to take the Oaths, that the public might have that security of their Allegiance from those that refuse the Oaths. 8. Because it was unreasonable, that for a part of the Clergy, the nation should be exposed to the inconveniencies of the want of justice, and the danger of disorders for want of settling the Militia; the renewing of all Commissions being delayed, to the great prejudice of the government and the people, till this Act were past, and therefore they did not see why that house should not comply with the commons in the present necessity, though their Vote should be hard on a part of the subjects, whereas the utmost could be pretended in this case, was only contending for an extraordinary favour, and an unheard-of allowance to some scrupulous men. 9. Because it was neither what history could parallel, nor any policy justify, to allow any part of the people, who claim protection from the government, to be excused from giving the common and necessary assurance of allegiance and fidelity to it; and it was hard to think how any one that intended to be faithful to it, should come so near renouncing the government, as to desire to be dispensed with from being under the same ties, with other of their fellow-subjects.

(Signed) Macclesfield, Monmouth."

The Lords Reply to the Commons' Reasons.] April 22. A Conference was desired by the lords. Sir Tho. Lee reported from the Conference, the lords Answer to the Commons Reasons; as follows:—"In answer to the first and second Reasons alledged to the house of commons, it is agreed, that the policy of the law requires men to swear allegiance, and that it is the common and necessary duty of all subjects, and especially of the Clergy; but the lords do not exempt them from taking these Oaths, but only differ with the house of commons about the method by which they should be tendered.—To the third reason: If the lords should agree, that it is better to tender the Oaths in open court than privately, yet that

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is not a sufficient reason against the tendering them by persons appointed by the king in council; because the officers and judges of the court may be so appointed, by virtue of the clause offered by the lords; or if it be not clearly enough expressed, it may be inserted more explicitly.—To the fourth: the Clergy will be required to take the Oaths by such Order in Council as is proposed by the lords, and their not appearing, when so summoned, will amount to a refusal; or if it should not, the lords would agree to any such addition as would make it so.—To the other Reasons: the Clergy and the members of the University were not distinguished from the Laity, because, upon all promotions to any degree or preferment, they will be, equally with others, obliged to take the Oaths; and even those that are already in such stations, will be obliged to take the Oaths when required by order in council: and it seems to conduce more to the settlement and safety of the government, that the king should be impowered to put the fidelity of the Clergy to a trial immediately, than to leave any who are ill-affected to the government so much time as to the 1st of August, to be all that while undermining it.—The Clergy are obliged, by the Prayers which they must read, in the daily service, to make such express and solemn declarations of their fidelity to the king and queen by name, that the putting them to take the Oaths is not so necessary to the public safety as in other persons, who are not bound to make such frequent declarations of their fidelity.—In so critical a time as the present is, it is not to be doubted, but upon any case of apprehending their ill-affections to the government, the tendering the Oaths, by order of council, will not only take off all imputation of hardship from his majesty, but justify, and even require a more rigorous way of proceeding against those that shall give any cause of offence:—Since, during queen Elizabeth's long and glorious reign, in which she had both the pretended title of the queen of Scots, and the deposing power assumed by the Pope, to apprehend, this was found to be the safest way for the public quiet; and the ill-effects of leaving the tendering the Oaths to the queen's discretion not having appeared in all that time of so much danger, and so many conspiracies against her person, the following a pattern taken from the best part of our history seems more suitable to the present times, than the falling on other methods; which the lords think a sufficient Answer to the last Reason given by the house of commons."

Debate on the above Answer.] Sir *Henry Goodrick.* I see it evidently here, by the lords Paper, that a Dispensing power is asserted; a power in the king and council to exempt a part of the people from their allegiance; no doubt, any thing shall be granted, if you will give this power of dispensing with this law. What have these men done to merit this exemption? If your Clergy had not curates, and if there were no pluralities; if obliged to keep conformable curate, the curate will pray for king William, but the parson is gone, and you cannot punish him; and there is your dispensing power. Consider the difference of times; in queen Elizabeth's time, there was but just a new settlement of the Protestant Religion; half her kingdom then were Papists; things (God be thanked!) are now so changed that we are entirely Protestants, if we can keep ourselves so. All this is no more than granting a power to the king and council, to dispense with all the statutes.

Mr. *Howe.* I have heard nothing to the contrary from the lords Answer; and I think that all are obliged to take the Oaths. I believe this power is asked by the lords, without consent of the king. The council is not infallible, nor, I believe, ever will, unless you put a penalty upon the council for not executing this law. They agree to the necessity of the Oaths; yet, it seems, they give a Reason why not; as if prayers for the king and queen, in the Litany, was as much as taking the Oath of Allegiance. They pray 'for all Christian kings and queens.' I cannot, with a safe conscience, pray for king James; and if they will pray for them that they owe no allegiance to, I desire not their prayers. That of a shorter day, I believe, is a Reason out of the strong box. The precedent of queen Eliz. is not for us to follow. They who will side with those who will not pay Allegiance to king William, will not stick to promote the title of king James. We have reports of conspiracies, and they are from those that are enemies; and those that will not swear, will help to bring in king James.

Sir *Rob. Howard.* The lords sent a Bill first. Be pleased to observe one thing; the lords sent down great instructions in it, and one thing of extraordinary use. Those that take not these Oaths, are underminers of the government; and then, by their Amendments of our Bill, to countenance the not taking them, is to me a contradiction. A penalty on the king, for not tendering the Oaths, would be too high a thing for us to impose; but to put the king to believe he has some that are not good subjects, (as the lords put the king upon that opinion) and that, upon their leaders scruple, they are not free to the allegiance, is a kind of sermon from them against the allegiance, and a doctrine practised by us. They are underminers of the Allegiance, that make it less sure to oblige them. An Oath (which they scruple) is an end of all controversy; this is as if some would be in that controversy, and not take the oath. The instance the lords give of queen Eliz. is a very wild precedent. The lords have given you no manner of Reason why you should comply with their Amendments.

Col. *Birch.* I believe there is more in these reasons, that we see not, than we see. If we are not exceedingly well armed for a Conference, which will go about the nation, we shall be injured.

The Lords' Answer was disagreed to, and a free Conference was desired.

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Debate thereon at a second Free Conference.] At the free Conference: The earl of Nottingham managed for the lords.

Sir *George Treby.* The difference of the house of commons, &c. is great; but not so great, when the matter is understood. The commons tender an Amendment, requiring the Bishops to take the Oaths, &c. Your lordships, instead of that Clause, appoint the Oaths to be taken before persons, by order of the council; to which the commons cannot agree, and have sent to your lordships for this Conference, to make their Reasons more intelligible. Your lordships admit the Oaths to be taken, &c. and sooner than the time, &c. No question is, or can be, but our allegiance is due to the king and queen. At the last great free Conference, your lordships alleged, the throne was filled, and no Allegiance. But the throne being now filled, we have now to think how to oblige those persons, by sacred ties, to the king and queen. It falls out, that the persons chiefly concerned in this are the Clergy. The strength of all government is unity and uniformity in Allegiance; and he is no farther a subject but as he owes allegiance to his prince. The wisdom of the common law requires early allegiance in court-leets. Afterwards, when affections were alienated from the prince to foreign powers, there was something to strengthen that by a statute. This allegiance has been oppugned by some persons, and we hope it will be confirmed by your lordships concurrence. We follow all the methods of that statute. Your lordships answer, 'It is better the Oaths be tendered openly than privately.' To which we answer, That the Judges cannot, by order of council, authorise giving the oaths by authority of Council judicially. Your lordships say, 'the not taking them, within the time limited, shall amount to a refusal.' Whether a man have reasonable cause to be absent, is a matter of contest. To the other Amendments: the commons desire present Security for the government; a present security is necessary against undermining the government; and if the Oaths are to be administered by order of council, persons may conceal themselves. If the time limited be too short, the commons will close with your lordships for longer. Your lordships say, 'If the person be thought ill-affected, the Oath may be tendered sooner;' but those ill-affected persons may be infecting the rest: and the council ought to secure all men from malevolence of the crown. We answer to that of the statute of queen Eliz.; what your lordships refer to is the Oath of Supremacy. There was a distinction between those that owned the Supremacy, and those that did not; and that can be no parallel to our case. To live religiously and happily, is well; but we must first live. This Oath is our being.

Earl of *Nottingham.* We agree the necessity of all duty and allegiance, by all persons, to be paid to the king, the difference is in a very narrow compass; we only differ in the method. I shall not repeat the lords Reasons, only in answer to Treby, there is no other method left to oblige them to take the Oaths sooner than this proposed by the lords, before the 1st of August. I differ from Treby about the Oath of Allegiance and Supremacy; they that would deny queen Elizabeth's supremacy, did assert the powers of deposing and excommunicating her to be exercised as much as the Pope could do; and the Oaths of Allegiance and Supremacy were as necessary to be taken then, as this is now. And therefore the lords take so good a pattern now, as that, which was so successful and happy then.

Sir *George Treby.* The comparison was made only in respect of the places they should forfeit. I did say, 'yet the judges could not do it judicially,' which makes it part of the authority of the judges; they must give the Oath privately; not as judges, but as persons nominated, by the king in an afternoon, or in any other place than the Court.

Sir *Wm. Williams.* The Question will be no more than, whether the Oaths shall be administered in public, or in private. In Court it will be a Record; it rests from whence this distinction must proceed. The conscientious men, in this case, are the dangerous men; these hands are but the tools which are set on work, and there are no means to discover these but by oaths. There is more reason to impose them on the Clergy than on other men, because they have a greater tenderness in taking them, from some secret reason. The Oaths, in queen Elizabeth's time, were more to distinguish Protestant from Papist; that law was made for the illness of those times. If in king James's time there had been one method for the commons, and another for the Clergy, there were some ground for this now; but there was one method for both then; one form both for Allegiance and Supremacy, of the same nature. I agree, your lordships method is the soonest way, but it is more certain and plain when it is known. It looks to us, as if there was a little tenderness to the bishops, and as if a power in the king to order the taking or not taking the Oaths. I deny not but a parliament may do any thing; but this looks like a case of binding the Laity one way, and the Clergy another.

Bishop of *Salisbury,** (Dr. Burnet.) The

* "I was the chief Manager of the Debate in favour of the Clergy, both in the house of lords, and at the Conferences with the commons, But seeing it could not be carried, I acquiesced the more easily; because, though in the beginning of these debates I was assured, that those who seemed resolved not to take the Oaths, yet prayed for the king in their chapels; yet I found afterward this was not true, for they named no king nor queen, and so it was easy to guess whom they meant by such an indefinite designation. I also heard many things that made me conclude they were endeavouring to raise all the opposition to the government possible." Burnet.

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whole danger of the government may lie upon this. If some say the king is an usurper, he is within the Statute of Treason. All the Clergy, in the Common Prayer, pray for king Wm. and queen Mary. In the Communion service there is a protestation of fidelity; if they omit that prayer, they are punishable; by the Act of Uniformity they are tied to it. Can it be imagined, that the clergy will so solemnly pray thus, and not obey the king and queen? This is more than an Oath, which is but one single act; this is done every day; they themselves pronounce the words in the Sacrament service. As for the objection of taking it in open court, a few words may provide against that. The Act of Supremacy was in Hen. 8th's time. The first invention of it was not in queen Elizabeth's, but qualifying it for sir Tho. More, and bishop Fisher. Then they fell under that Oath upon refusal. Though some of the Church of Rome have renounced the conspiracy of Mary queen of Scots against queen Eliz. We never should extend that power, when we consider, that men have speculations they cannot be rid of. This proceeds from such a supposition that may be speedily punished in attempting to overthrow the government. Now, whether you will not leave this to the king? And there is no reason to suspect the crown in its own safety. The eyes of all England are upon this matter. The lords are of opinion they have made so much a better security to the government than what you have made, that they hope you will agree with them.

Sir *Henry Goodrick.* Since this makes a distinction to a few, it will be so much discouragement to this law that it may weaken it. There are a sort of men that either will not pray for king Wm. and queen Mary, or talk so in common conversation, that their parishes apprehend something ill for the government lies hid in it. Discrimination in our Church is highly pernicious. Now when we comprehend Dissenters, and we leave so great latitude to the great lights, the bishops, it may prove fatal. It is said, 'the Clergy acknowledge the king and queen, &c. in the Common Prayer.' I answer, if it was not already scrupled—so few Dissenters from us—Therefore I hope you will not encourage them against the lords and commons of England. In queen Eliz.'s time, the nation was half Protestants and half Papists, and a prospect of a Popish Successor in Mary queen of Scots. This will do no good unless to contribute to farther difference. Your lordships may well accept this difference the commons have made—Papists, for the most part, will take the Oaths of Allegiance, but not of Supremacy. Shall it be said that any of our great bishops make use of arguments of the Papists? In ancient times, there were such accounts of the bishops foreign allegiance, that there is a vast apprehension of such a precedent tye to king James, as the court of Rome had formerly on the bishops. I hope you will make this refusal præmunire in the Clergy.

Sir *Tho. Lee.* If your lordships had so mended the Bill as to the case of Offices, as you have done in that of the Clergy, the commons might have less objected. The great thing insisted on is queen Eliz.'s time—The Clergy upon refusal of the Oaths, &c. were deprived immediately. The commons have rather followed the precedent of king James's time. It may fall out, that persons may be surprized, and it will be a great hardship that the Oath should be tendered to some, and not all, and no suspicion on particular persons. Were more noble prelates in here with your lordships, we should have less suspicion of any apprehending allegiance to king James. The height of danger to the kingdom is in the highest station to the kingdom.

Earl of *Pembroke.** The sense of the giver is no more than obedience according to law. Why may it not be expected, 'obedience according to law?' And they take it in the giver's sense, and leave it to the king.

Mr. *Somers.* Since all loyalty ought to be without distinction, if you will make that law effectual, those who execute it themselves are the most effectual; they are obliged in interest to take it, or forfeit all. But if left to others to tender it, many ways may be found to evade it, instead of having this law take its full effect. It concerns the government to know who the persons are, that doubt the owning the government. This Oath was so framed by your lordships with that great moderation, wherein there is nothing but plain promise of obedience.

Bishop of *London,* (Dr. Compton.†) The

* Soon after sent Ambassador to the States-General, colonel of marines, first lord of the admiralty, and in 1691 appointed lord privy seal: he was first plenipotentiary at the Treaty of Ryswick in 1697, in 1700, lord president of the council, and in 1701, lord high admiral. By queen Anne he was continued at the head of the privy council, and was appointed lord lieutenant of Ireland in 1707, and lord high admiral in 1708, which he resigned two years after. This noble earl made that admirable collection of ancient Marbles, &c. now preserved at Wilton, and died in 1732.

† Uncle to the then earl of Northampton, and first a cornet in the horse-guards, but afterwards taking orders, was successively master of St. Cross, canon of Christ-Church, bishop of Oxford in 1674, and of London in 1675: on king James's accession he was dismissed from the Council-Board for having opposed his measures, and in 1686, he was suspended from his episcopal function for not suspending Dr. Sharp. On the prince of Orange's landing, he escorted the princess Anne to Nottingham, and afterwards voted for the Vacancy of the Throne, &c. In 1691, he attended king William to the Congress at the Hague, and died in 1713, aged 81. As to his character, he was peculiarly styled 'the Protestant Bishop,' for the stand he made against Popery both in the reign of Ch. 2 and James 2.

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question seems, why it should not be in the power of the king, for the quiet of the government, to tender these Oaths, &c. Forcing these Oaths will rather disturb men's passions, and make men's minds more uneasy.

Sir *H. Goodrick.* We find this is only a promissory Oath, and in the same form as that of Allegiance was formerly.

Bishop of *Salisbury.* This makes no discrimination of persons designed. It is a notion in the world, that there is a great difference betwixt subjecting to a government, and solemnly recognizing a government, the design being only to secure the government from danger.

Earl of *Pembroke.* Nothing is so hard to judge of as conscience, why he can do it, or not do it. The clergy are men of conscience, and have suffered, and persons may follow their example; and you would not willingly see them starve. They are put under the power and care of the king, and do not turn them begging, for their consciences, by deprivation.

Sir *Tho. Lee.* The king has opportunity to take care of the clergy; but exempting them will be an encouragement to the lay-men. There is no way to bring all England of a mind, but this.

Sir *Hen. Goodrick.* The commons propose nothing but what was in the 7th of king James. Seeing your lordships will exempt the clergy from the laity, it deserves farther consideration in the house of commons.

Earl of *Nottingham.* It is not now, that the lords make distinction of persons. The lords, in queen Eliz.'s time, were exempted, &c. so considerable it was, for the quiet of the nation, from the formality of the Oath they scrupled. If it be left to the king, the danger is not so great as represented.

Debate on rewarding the Duke of Schomberg.] April 24. Sir *Rob. Howard.* The duke of Schomberg, one of the greatest captains in the world, under his majesty, the then prince of Orange, has had his estate and pensions all seized in France, and he has waved all things in this world to serve you and his religion. He has been solicited by the duke of Brandenbourg, and the emperor, to be their general. He has quitted all, to serve this king and kingdom; hither he comes, and the king is not in a condition to reward him, otherwise than with the honour of Knight of the Garter. The king's condition is not equal to his desires to reward him. There cannot be a greater misfortune than to lose so great a captain. I hope the house will do something for his fortune, as the king has done for his honour.

Mr. *Hampden.* I think this motion is of consequence, and no good Englishman can let it fall. The merits of this great person in the world are well known by the respect of princes to him. If there be occasion, his service may be of great use, being the greatest captain in Europe. Therefore I wish you would propose something the king may do for him. You cannot give it to him, but you may present the king with it, and desire his majesty to dispose of it to him.

Mr. *Garroway.* I have as high esteem for marshal Schomberg, as any body. Though we have no present use of him, yet we may have. But how to raise Money upon the people, and have that immediately given to marshal Schomberg, I know not that precedent. When we raise Money for the Navy we may represent his merits to the king in that Bill, and make him such a present as may encourage him to be farther serviceable to the nation.

Sir *John Guise.* I doubt not but if you declare those who assist king James, rebels and traitors, that the king, out of their estates, will give a reward to marshal Schomberg for his service.

Sir *Tho. Clarges.* I have as great a sense of this man's service to the nation as any in the house, or any where else. I hope we shall not intend to present this man to the king to be considered by him, but what shall be thought of or advised to enable the king to gratify this honourable person. No man is against it, but, as you have been told, there will be forfeitures of such as have violated the rights of the people, and are in actual rebellion. When you take the Indemnity into consideration, you will do it. The king's brother, the duke of York, had an estate given him out of the confiscations of the miscreants who were attainted; and I hope the king will give him some reward out of the estates of those who are in rebellion against the government.

Mr. *Harbord.* The king told me, 'That he had told marshal Schomberg, that he being not in ability to gratify him, he would recommend him to the consideration of this house;' and I doubt not, on Monday, you will find out some way to do it. It is not fit the nation should bear the burden, when these men have been the occasion of your misfortunes. We shall not be welcome into the country, if we raise no money upon these estates.

Sir *Tho. Lee.* I would not trouble you now, were I not afraid of precedents. You are told by Harbord, 'that the king has had marshal Schomberg under his consideration.' I am surprized that the motion was not earlier. I remember, when there were great commendations of general Monk here, for what he had done, then the methods were, the king gave him rewards and lands, and the parliament confirmed them afterwards. I would have it from the hand it ought, and I hope the crown will be maintained always in that plenty as to be able to do it. It will be best for the marshal, and best for you.

Mr. *Garroway.* It has been moved that this acknowledgment may be given marshal Schomberg out of the estates of offenders, &c. I move you, that the king may be addressed to issue out his proclamation, that they appear by a day, or else they shall stand outlawed; and their estates seized as confiscate to the king.

Sir *Christ. Musgrave.* When gentlemen

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seem to be of opinion that no question should be stated till gentlemen have an inclination to state it, it ought not to be. I have a great honour for marshal Schomberg, but you are out of the way, if you put a question, that we shall take upon us to recompence him for his service; that is a prerogative only of the king. We are only to enable the king to gratify such persons, and I move you for the order of the day.

Sir *Henry Goodrick.* This house is possessed of the great merit of this gentleman, as all the Protestants of Europe are; but to lay this debate aside now, I am against it. They did give great gratuities to generals in former times, when we had no king in Israel; but we cannot usurp that prerogative: therefore for the present I would have it on your books to acknowledge this gentleman's great service to the king, and to enable the king to settle a grateful acknowledgment on this great man.

Mr. *Hampden*, jun. I hope you will not go off from this motion without leaving something on your books. Ireland is not to be reduced without a general; and this is the greatest general in Europe: he is used to conquer kingdoms. Portugal by him was restored to the right owner.* You will use him for Ireland. Pray put not this debate off without having something upon your books.

Sir *Rd. Temple.* I find, all resolve to return him thanks for the great services he has done the king and the nation, and that you will recommend him to the king. Therefore pray put the question.

Sir *Tho. Clarges.* I fear, this may be of dangerous consequence, to put ourselves in competition with the king in giving rewards to persons. I remember but one precedent, and that was in the brother of a king, the duke of York. It is dangerous to be on your books.

Sir *Tho. Littleton.* Now this has been a debate, to let it fall may be of dangerous consequence. If we recommend him to the king, we may enable the king to gratify him. If we let it fall now, it will be very scandalous upon us.

Sir *Henry Capel.* It will be of dangerous consequence for this house to gratify particular persons. Sir George Booth had a vote of 10,000*l.* given him. The times indeed were different. This person is so eminent, that you can have no ill consequence of it.*

The debate was adjourned to the 13th.

Address of the Commons for a War with France.] April 24. The following Address was agreed to by the commons, and ordered to be presented to his majesty by the whole house:

"We your majesty's most loyal and dutiful subjects, the commons, &c. most humbly lay before your maj. our earnest desire, that your maj. will be pleased to take into your serious consideration the destructive methods taken of late years by the French king, against the trade, quiet, and interest of this your kingdom, and particularly the present invasion of the kingdom of Ireland, and supporting your majesty's rebellious subjects there; not doubting in the least, but that through your majesty's wisdom, the alliances already made, with such as may hereafter be concluded on this occasion by your majesty, may be effectual to reduce the French king to such a condition, that it may not be in his power hereafter to violate the peace of Christendom, nor prejudice the trade and prosperity of this your majesty's kingdom. To this end we most humbly beseech your majesty to rest assured upon this our solemn and hearty promise and engagement, That when your maj. shall think fit to enter into a War against the French king, we will give your maj. such assistance in a parliamentary way, as may enable your majesty (under the protection and blessing God Almighty has ever afforded you) to support and go through the same."†

The same day, the lords by message signified they had several treasonable Letters under consideration, which had been transmitted by

* "The king of Portugal sent count Schomberg to oppose the Spaniards; and though the count de Villa Flor had the title of general, he owed the preservation of his crown entirely to the former. This great captain obtained several victories over the Castilians; and it may be said, that he had less difficulty to conquer them than to overcome the obstinacy of the Portuguese general, who, being envious of his glory, traversed every design which he thought would augment it. But Schomberg had the confidence of the court, and of the troops, who followed cheerfully a commander always attended by victory." Vertot's Revolutions of Portugal.

* This great general, soon after this debate, went over to Ireland, at the head of an army of 10,000 men, and the next year fell triumphantly at the Battle of the Boyne. "It was his peculiar merit," says an excellent writer, "to have been more than once employed in the defence of nations in danger of losing those liberties they had with difficulty retrieved; and to have completed that character by dying at last, full of years and multiplied honours, in the same employment, on behalf of these Protestant kingdoms of Great Britain and Ireland." Hughes's Preface to the Translation of Vertot's Revolutions of Portugal. Burnet says, "That the parliament gave the duke 100,000*l.* for his services." This, however, was never paid, but in lieu of it 5000*l.* a year was settled on him and his heirs.

† Oldmixon says, "That sir Tho. Clarges seconded this motion;" and another member spoke thus; "Mr. Speaker; I bear all the respect that I owe to crowned Heads, but I cannot help saying, that it is of absolute necessity to declare War with the most Christian Turk, who ravages all Christendom, and makes war more barbarously than the Turks themselves."

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duke Hamilton from Scotland: in consequence of which, both houses passed a Bill to enable his majesty to apprehend and detain suspected persons.

Bill of Oaths passed by the Lords, with a Proviso.] After which, sir George Treby reported from a free Conference with the lords, That their lordships had departed from their disagreement, with respect to the Bill of Oaths, and did agree to the Amendments made by the commons, with the Proviso following, (which they nevertheless acknowledged was contrary to all course and practice of parliaments.)—"Provided always, and be it enacted by the authority aforesaid, That it be left to the king to allow such of the Clergy, as shall refuse the Oaths prescribed by this Act, as he shall think fit, not exceeding the number of 12, an allowance out of their ecclesiastical benefices, for their subsistence, not exceeding a third part; and to continue during his majesty's pleasure, and no longer."

£. 600,000 per Ann. granted for the Civil List; and 700,000l. for the Navy.] April 25. Resolved, "That, out of the Public Revenue, for the Charge of the Civil Government, (including therein what is to be allowed her royal majesty the queen-regent, the queen-dowager, the prince and princess of Denmark, and the mareschal Schomberg) there be allowed the sum of 600,000*l.* per ann. And, that 700,000*l.* be given towards the occasions and Charge of the Navy."

The King's Answer to the Address for a War.] April 26. The Speaker reported his majesty's Answer to the Address for a War with France, which was as follows:

"W. *R.* I receive this Address, as a mark of the confidence you have in me. Which I take very kindly, and shall endeavour by all my actions to confirm you in it; I assure you that my ambition shall never be any argument to incline me to engage in a war, that may expose the nation either to danger or expence. But, in the present case, I look upon the War to be so much already declared by France against England, that it is not so properly an act of choice, as an inevitable necessity, in our defence.—I shall only tell you, that, as I have ventured myself, and all that is dear to me, to secure this nation from what it suffered, I am ready still to do the same, in order to the preserving it from all its enemies; and, as I cannot doubt of such assistance from you, as shall be suitable to your advice to me to declare War against a powerful enemy, so you may rely upon me, that no part of that which you shall give for the carrying it on with success, shall be diverted by me, to any other use."

Articles voted to belong to the Civil List.] April 27. The house agreed with the Committee on the Supply: That the following Articles are part of the Charges of the Civil Government: 1. The Perpetuities, amounting to 1431*l.* 12*s.* per ann. 2. The sum of 18,209*l.* 15*s.* 4½*d.* per ann. to the Queen Dowager. 3. The sum of 13,800*l.* per ann. for the Judges, Masters in Chancery, and Judges of Wales. 4. The Perpetuities out of the Customs, &c. (except the 100*l.* per ann. to the heirs of col. Fairfax) amounting to 338*l.* per ann. 5. The Provision for the prince and princess of Denmark.

Pension List, &c.] Mr. Hampden acquainted the house, That he was directed by the Committee to move, that the Papers delivered in by sir Robert Howard to the house, containing several Charges upon the Revenue, may be entered in the Journals. Which was ordered accordingly; and are as followeth:

A List of the several Perpetuities and Pensions, during Life or Lives, and for Term of Years; which are payable at the Exchequer, Custom-House, Excise-Office, Post-Office, &c. - - - - - per Ann.

Perpetuities paid at the Exchequer.

	£.		
Dean and Chapter of Litchfield	10	0	0
Vicars of Litchfield - - -	15	0	0
For the Poor of St. Buttolph's, Aldersgate - - - -	7	0	0
For the Poor of St. Magnus, London	21	4	8
For the Poor of St. Michael's, Cornhill - - - - -	12	4	0
For the Poor of St. John Baptist, Walbrooke - - - -	7	13	4
Winchester College - - -	2	0	0
Master of St. Katherines - -	3	13	4
Eaton College - - - -	42	0	0
Schoolmaster of Southwell - -	10	0	0
To the Vicar of St. Peters, in the Tower - - - - -	6	13	4
Sir Edw. Tyrrell, and his Heirs -	6	0	0
Emanuell College, in Cambridge, for Maintenance of Five poor Scholars - - - - -	16	13	4
Cambridge University, for a Divinity Lecture - - - -	13	6	8
Ditto, for a Preacher - - -	10	0	0
Ditto - - - - - -	10	0	0
Professor of Civil Law there -	40	0	0
Physick Reader there - - -	40	0	0
Oxford University - - -	10	0	0
Ditto, for a Divinity Lecture -	13	6	8
Professor of the Civil Law there -	40	0	0
Physick Reader there - - -	40	0	0
The Heirs of Sir Rob. Long - -	5	0	0
Master of the Temple - - -	37	6	8
Students of Grey's-Inn, for a Chaplain - - - - - -	6	13	4
The Heirs of Sir John Cotton, for the Maintenance of a Minister -	5	6	8
The Heirs of the Lord Darcy -	10	0	0
Ditto - - - - - -	10	0	0
Dean and Chapter of Westminster, for the Minister of the French Church in the Savoy - -	60	0	0
Governors of Christ's Hospital, for the Maintenance of Thirty Boys	370	10	0
Poor of St. Martins in the Fields -	100	0	0
Poor of St. Margaret's, Westminster	50	0	0
Hospital of King Charles the First, in Westminster - - -	50	0	0
Poor of St. James's Parish, in Westminster - - - - -	50	0	0

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Earl of Derby and others, and their Heirs, towards the Maintenance of poor Ministers in the Isle of Man	100	0	0
Bishop of Chester, for the Four Lancashire Preachers	200	0	0
Perpetuities	1,431	12	0
Pensions paid at the Exchequer.			
Late Queen Consort's Jointure, out of Excise	18,000	0	0
Post-Office	19,328	13	7
Ditto, more by Letters Patents, during her Life, out of Exchequer in general	10,000	0	0
	47,328	13	7
Queen Dowager, out of Excise, for Life	10,972	19	3
Ditto, more	1,236	16	1
Ditto, more out of the Revenue in general	6,000	0	0
£.	18,209	15	4
Duke of Grafton, out of Excise, for Life	3,000	0	0
Duke of Northumberland, out of Excise, the like	3,000	0	0
Duke of Southampton, the like	3,000	0	0
Earl of Oxford, and his Countess, during the Life of the longer liver	2,000	0	0
Executors of the Duke of Bucks, for 21 Years from Lady-day 1674	2,500	0	0
Earl of Ranelagh, for 21 Years from Midsummer 1674	1,500	0	0
Christopher Lord Hatton, for the same time	1,000	0	0
Lord Grandison and Colonel Villiers, for Ninety-nine Years, if the Duchess of Cleveland so long live	6,000	0	0
Duchess of Portsmouth, from Christmas 1680, for 31 Years, out of First Fruits and Tenths	1,000	0	0
William Earl of Bedford, and others, in trust for the Countess of Bristol, during her Life, out of Tenths	1,000	0	0
Countess of Bristol, for her own Life	1,000	0	0
Countess of Portland during Life	1,000	0	0
Peregrine Bertie, & alia, in Trust for the Countess of Plymouth, during her Life, viz. Out of Alienation-Money 1000*l.* First Fruits, or Tenths - 2000*l.*	3,000	0	0
Earl of Peterborough, for Service at Tangier, during Life	1,000	0	0
Charles Toll, for the Remainder of 21 Years from Lady-day 1680, out of Tenths	1,000	0	0
Earl and Countess of Litchfield, until 14,000*l.* be paid at one intire Payment	1,000	0	0
Earl of Bath and Lord Hawley, for 99 Years, if Frances Duchess of Richmond so long live	1,000	0	0
Earl of Strafford, during Life	2,000	0	0
Bed-Chamber Men.			
Earl of Bath, during Life	5,000	0	0
Earl of Mulgrave, the like	1,000	0	0
Duke of Newcastle, the like	1,000	0	0
Earl of Oxford, the like	1,000	0	0
Earl of Lindsey, the like	1,000	0	0
Earl of Dorset, the like	1,000	0	0
Earl of Macclesfield, the like	1,000	0	0
Ditto more, the like	1,000	0	0
Lord Latimore, the like	1,000	0	0
Earl of Sussex, the like	1,000	0	0
Grooms of the Bedchamber.			
Lord Godolphin, during Life	500	0	0
Bernard Greenvile, the like	500	0	0
Edw. Progers, the like	500	0	0
Rob. Philipps, the like	500	0	0
Thomas Felton, the like	500	0	0
George Bridges, the like	500	0	0
Thomas Neale, the like	500	0	0
Thomas Lee, the like	500	0	0
Tho. Windham, the like	500	0	0
Pages of Honour.			
Aubery Porter, during Life	120	0	0
John Prideaux, the like	120	0	0
Adolphus Sayer, the like	120	0	0
Robert Killegrew, the like	120	0	0
Thomas Poultney, the like	120	0	0
Thomas Felton, the like	120	0	0
Sidney Godolphin, the like	120	0	0
Women of the Bed-Chamber.			
Lelia Cranmer, during Life	300	0	0
Mary Crane, the like	300	0	0
Lady Frazier, the like	300	0	0
Mary Tuke, the like	300	0	0
Ann Sheldon, the like	300	0	0
Winifred Windham, the like	300	0	0
Henrietta de Borde, the like	300	0	0
Joanna Thornhill, the like	300	0	0
Mary Carter, the like	200	0	0
Instrumentals in King Charles the Second's Escape.			
Mrs. Jane Lane (now Lady Fisher) during Life	1,000	0	0
Thomas Lane, the like	500	0	0
Charles Gifford, the like	300	0	0
Mrs. Rachel and Mrs. Frances Windham, the like	400	0	0
Nicholas Yates, and the Heirs of his Body	100	0	0
Francis Mansells, Executors for two Lives in Being	200	0	0
Francis Reinolds, during Life	200	0	0
Tho. Whitgrave, the like	200	0	0
Sir Thomas Windham, the like	600	0	0
John Rogers, and Ann his Wife, and their Heirs Male	100	0	0
Rob. Swan	80	0	0
Kath. Gunter's Executors, for 21 Years from Lady ... 1668	200	0	0
Nic. Estall, during Life	50	0	0
Nic. Titersell's Executors, for the Residue of a Term of 99 Years, which commenced at			

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Lady-day 1663; if Nic. Titersell, Son of the said Nic. and Susan the Daughter, should so long live	100	0	0
Amias and Juliana Hext, during Life	200	0	0
Sir Wm. Killegrew, during Life	500	0	0
Mrs. Mary Boynton, the like	120	0	0
Somerset Fox, the like	300	0	0
Earl of Berks, the like	300	0	0
Mrs. Ann Lawson, the like	250	0	0
Mrs. Ann Goulding, the like	120	0	0
Ann Bird, the like	30	0	0
Mrs. Mary and Sophia Nevill, each 50*l.* the like	100	0	0
Lady Stepney, during Life	200	0	0
Lady Joan Howard, during Life	500	0	0
Dr. Gibbon, for 99 Years from Michaelmas 1674	100	0	0
Lord Dunblaine, till his Grant of the Office of Auditor of the Receipt of the Exchequer take effect	500	0	0
Wm. Levett, during Life	200	0	0
Lady Sophia Stuart, the like	300	0	0
Lady Goditha Price, the like	400	0	0
Mrs. Eliz. Hamilton, the like	500	0	0
Ditto, for 99 Years; if James, George, or William, her Sons, should so long live	850	0	0
Lady Fanshawe's Executors, for 31 Years, from Lady-day 1665	600	0	0
Sir Sam. Moreland, during Life	600	0	0
Ditto more, for his Son's Life	200	0	0
Eliz. Elliott, during Life	500	0	0
Kath. Elliott, the like	200	0	0
Lady Wentworth, the like	600	0	0
The Seven Auditors of the Revenue, besides their old Salary, each 200*l.*	1,400	0	0
Mrs. Winifred Windham, during Life	200	0	0
Barbara Strickland, the like	200	0	0
Margaret Price, the like	200	0	0
Robert Bertie, during the Life of Mary Cock	40	0	0
Lodowick Bray, during Life	40	0	0
Mrs. Sophia Bulkly, the like	300	0	0
Nath. Castleton, the like	20	0	0
Wm. Chiffinch, during Life	200	0	0
Madam Charlotte Howard, the like	500	0	0
Edward and Fran. Russell, for Ten Years, from Midsummer 1687	600	0	0
Lady Fairbourne, Residue of 500*l.* per Ann. unsurrendered	200	0	0
Duke of Albemarle, until 7000*l.* be paid at one intire Payment, for the Purchase of Moote-Park	300	0	0
To the Duchess of Monmouth, her Jointure	4,000	0	0
There is due upon this, since the Duke's Death, for Three Years Three Quarters, 15,000*l.*			
Five several Pensions, mentioned under the Head of Non-Payments of the Exchequer	1,252	0	0
	£. 144,330	9	1
To the Twelve Judges	12,000	0	0
To the Masters in Chancery	1,100	0	0
To the Judges of Wales	700	0	0
Pensions	158,130	9	1
Perpetuities	1,431	12	0
Paid at the Exchequer	£. 159,562	1	1

There are other Salaries to several of the King's Officers.

Perpetuities paid out of the Customs, &c.

To the Mayor and Aldermen of Hull, for maintaining the Banks and Gates there, paid out of the Customs	18	0	0
Mayor and Burgesses of Berwick, for maintaining the Bridge there, out of Customs	100	0	0
Corporation of Lyme, for Maintenance of the Cobb there	100	0	0
Bishop of Exeter, for the Minister of Lostwithiell, out of the Revenue of the Duchy of Cornwall	30	0	0
Lostwithiell Gaol, out of the same	50	0	0
Corporation of Dartmouth, out of Customs	40	0	0
To the Heirs of Colonel Fairfax for ever, out of Customs	100	0	0
Perpetuities	438	0	0

Pensions not paid at the Exchequer.

Prince and Princess of Denmark, for Life: viz. Out of the Excise - 15,000*l.* Letter-Money - - 15,000*l.* Ditto, by Privy-Seal, during Pleasure - 2,000*l.*	32,000	0	0
Duke of Grafton, out of the Excise, with Remainder over to his Brothers	2,000	0	0
Lawrence Hide, now Earl of Rochester, for 13 Years, from Michaelmas 1676	500	0	0
Ditto, out of the Post-Office Money for 99 Years; if he, the said Earl, or his eldest Son, the Lord Visc. Hyde, should so long live	4,000	0	0
Duchess of Cleveland, out of Letter-Money	4,700	0	0
Earl of Bath, out of the Revenue of the Duchy of Cornwall	3,000	0	0
Earl of Mulgrave, out of the Alum-Farm, during Life	1,000	0	0
£. 1252 *in the Exchequer.* Jane Berkley, during Life	200	0	0
Lord Trenchvile, during Queen Dowager's Life	152	0	0

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Sir Rob. Holmes, during Life -	500	0	0
Lady Mary Howard, for 19 years from Midsummer 1672 - -	200	0	0
Edw. Progers, during the Life of the Lady Lucy Sandys - -	200	0	0
Sir Wm. Morrice, out of the Alienation Office, during Life	300	0	0
Chancellor of the Garter for the Poor Knights of Windsor - -	570	5	0
Instrumentals in Charles the Second's Escape.			
Joan Ellesden, out of Customs, for Life - - - - -	100	0	0
Antho. and Charles Ellesden, for the Life of the longer Liver, out of Customs - - -	100	0	0
Ann and Mary Ellesden, the like - - - - - -	100	0	0
Julian Conningsby, during Life, out of Land Revenue - -	200	0	0
Elian. Withers and Joan Hatsworth, the like - - -	100	0	0
Richard Grahme, for the Life of Sir Samuel Moreland; or, if he die sooner, to Midsummer 1692, out of Letter Money -	250	0	0
Sir Rich. Allibon, for the Life of James Corker of the Savoy; and, if he die sooner to Midsummer 1692; out of Letter-Money - - - - -	250	0	0
Tho. Doyley, in lieu of his Place of Engineer of the Mint, out of Customs - - - - -	100	0	0
Sir Peter Killegrew, out of the Duchy of Cornewall - -	300	0	0
Major Fincher, a Coldstreamer, out of Ditto, during Life -	80	0	0
Major Johnson, a Coldstreamer, out of the same, during Life -	60	0	0
Allowed to the Adventurers and Fishermen of Great Yarmouth, upon the Duty of Excise, payable by them for the Provision of Beer for the North Sea, and Herring-Fishery, under the Proviso of due Payment of the said Duty by them out of Excise - - - - -	160	0	0
Sir Tho. Clargis, out of the 12*d.* per Chaldron on Coals, in Fee	500	0	0
Earl of Kinoul, during Life, out of the Four and Half per Cent.	1000	0	0
Edw. Progers, out of unwrought Wood, for 21 Years, from Christmas 1674 - - -	800	0	0
Lady Villier's Executors, out of a Coinage-Duty, for Ten Years, from the Ninth Day of August 1681 - - - - -	600	0	0
More out of Post-Fines, for Ten Years, from Michaelmas 1683	500	0	0
Total of the Pensions not paid at the Exchequer -	53,270	5	0

Paid at the Exchequer.			
In Perpetuities 1,431 12 0 / In Pensions 158,130 9 1	159,562	1	1
Payments not made in the Exchequer.			
In Perpetuities - 438 0 0 / In Pensions - 53,270 5 0	53,708	5	0
Total of both -	213,270	6	1

Petty Farms, and other particular Estates, granted of certain parts of the revenue.

Prizage and Butlerage.

The Prizage is an hereditary duty taken of Wines, (to wit) one ton, if there be ten in a ship; and two, if there be above twenty; imported by strangers, or English, not exempted by charter, or special prescription.—The butlerage is 2*s.* per ton, imported by strangers: those duties were demised by James 1, to sir Thomas Waller, for a term of 40 years, which commenced after lives which were then in being, (in which term of years there are now to come by estimation, about 11 years) at the rent of 500*l.* per ann.: and Charles 2, 1673, granted the reversion of the said duties, with the said rent thereunto incident, to Trustees, for George Fitzroy, now duke of Northumberland, and the heirs male of his body; with remainder over to Henry Fitzroy, earl of Ewston, now duke of Grafton, and the heirs male of his body.

Twelve-pence per Chaldron on Coals.

Charles 2, demised to John lord viscount Mordant, sir Robert Peyton, and Jeremy Whitchcott, the 12*d.* per chaldron which was formerly granted to the crown for ever by the host-men of Newcastle, for all sea coals carried from thence, coast-wise, for the term of 31 years, which commenced from Christmas 1660, at the rent of 1838*l.* 12*s.* 6. per ann.: and, in 1675, his said late majesty demised to Eliz. visconntess Mordant, 4*d.* part of the said 12*d.* per chaldron, for 31 years, in reversion of the aforesaid term, at the rent of 612*l.* 17*s.* 6*d.* per ann.: and, in 1677, his said majesty granted to Charles duke of Richmond and Lenox, and Lovise dutchess of Portsmouth, the whole duty of 12*d.* per chaldron, and the rents reserved on both leases; *Habend'* to the duke and the heirs of his body; and, for want of such heirs, to the dutchess and the heirs of her body; at four nobles per ann. rent; saving to sir Tho. Clarges, and his heirs, a grant, which was before made to him in fee, of 500*l.* per ann. out of this duty.

Coals.

Charles 2, demised to Horatio lord Townsend 4*s.* per chaldron (part of the duties on coals exported to foreign parts) for 21 years, from Michaelmas 1667, at 1000*l.* per ann. rent; which lease expired at Michaelmas last: but there was another lease made in Feb. 1675, by Charles 2, to Wm. Etterick, esq. of this duty, for 31 years from Michaelmas 1688, at the same rent.

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Barilla and Pot-Ashes.

The customs upon these were granted in lease by Charles 2, to the late earl of Kinoule, for 31 years, from Lady-day 1664, at 240*l.* per ann. rent; which rent was afterward released: the lease became void by his late majesty's death; but James 2 did, by privy-seal, direct the duty to be collected by officers to be appointed by the lord treasurer, or commissioners of the treasury, and to be paid to the receiver-general of the customs; who is first to pay the charges of management; in the next place, to pay 940*l.* per ann. to the executors or administrators of the earl of Kinoule; and the rest to Thomas Brodrick and Wm. Jackson, sub-farmers, during the residue of the said term; which will end at Lady-day 1695, unless the privy-seal be sooner determined.

Logwood.

This is an hereditary duty, and was demised by Charles 2. to the earl of Rothester (supposed to be a trustee for Mrs. Gwyn) for 21 years, from Michaelmas 1683, at 5*l.* per ann. rent.

Writs.

The profits arising by sealing writs, &c. with the seals of the courts of King's-Bench and common Pleas, is granted to George duke of Northumberland, and the heirs male of his body; with like remainders in tale to his two brothers.

Lottery.

There is a grant made by the late James to one Ashenhurst, and others for the use of the royal oak-lottery, at 2200*l.* per ann.; but it not being entered before me, I cannot inform when it expires.

A Particular of old Debts, standing out before the year 1671, upon Registers kept on several Branches of the Revenue.

On London Excise - -	13,915	19	4
On Country Excise - -	5,234	10	7
On Additional Excise - -	2,100	0	0
On the Law-Bill - - -	5,385	13	7
On Customs - - -	74,800	9	0½
On Wines and Vinegar -	44,850	6	9½
On Fee-Farm Rents - -	62,042	5	8¼
On hearth-Duty - - -	110,500	2	1½
Revenue of North and South Wales - - - -	4,426	8	1
Recovery of Tin at Ostend -	750	0	0
Four and a half per Cent. -	5,472	8	0
Salt imported - - -	500	0	0
Since 1671, Second Disbanding Act, for Principal, besides Interest due - -	54,390	4	4
Hereditary Excise, To the Creditors of the Goldsmiths, a yearly Charge of 79,566*l.* 14*s* 2*d.*; upon which there is due for Six Years, at Lady-day last - - -	477,400	5	0
£.	861,768	12	6¼

Charges upon the Revenue.

Mr. Tho. Fox, for the Security of his Place of Receiver of the Customs, by Tally -	20,000	0	0
Mr. Duncombe, for the same, on the Excise - - -	20,000	0	0
The City, on the Excise -	185,525	0	0
To Mr. Hornby, on the Excise	5,000	0	0
To Mr. Hall, on the Hearth-Money - - - - -	47,000	0	0
£.	277,525	0	0
There is an Arrear to the Army and Navy - -	300,000	0	0
There is also a yearly Charge of 79,566*l.* 14*s* 2*d.* for perpetual Interest to the Goldsmiths, and their Assigns; which is now in Arrear at Lady-day next, for 6 Years	477,400	5	0

Report concerning Sir T. Armstrong.] Sir Joseph Tredenham reported from the Committee of Grievances, the matter to them referred, concerning sir Thomas Armstrong, viz. "That having summoned sir Sam. Astrey, the clerk of the crown, with the record of the outlawry of Hill. 35 and 36 Car. 2, it appeared that the *Quint. Ex.* was *Lunæ prox. post fest. sanct. Andreæ Apost.* 35 *Car.* 2*di.* That the Award of prosecution, was *Die Sab. prox. post quindec. let. Trinitat.* 36. upon a *Nihil dicit*, which was but six months after the said outlawry. That sir S. Astrey being examined, declared he was present at the Arraignment of sir T. Armstrong, who, being asked why execution should not be awarded against him, said, that by the statute of 5 & 6 Edw. 6. c. 11. it is enacted, 'That, if the party outlawed shall, within one year next after the outlawry pronounced, yield himself to the chief-justice of England, for the time being, and offer to traverse the Indictment or Appeal, that then he should be received to the said traverse. That he was answered by the lord chief justice Jeffreys, that he could pretend to no benefit, since he did not render himself to the lord chief-justice, as that statute requires; and that the court proceeded thereupon, to award Judgment against him as a Traitor, and believes he was executed accordingly. That Mrs. Matthews, (daughter of the said sir Thomas) being likewise examined, said she was in the court of King's-Bench, when her father was arraigned. That he demanded to have the statute of 5 and 6 of Ed. 6. read, and it was refused. That he, likewise, demanded council and a trial, but it was denied; and he urging that Holloway, who was in the said circumstance, had his trial, the Chief Justice said they had enough against Holloway. To which sir Thomas replied, that then they had not against him. And added, 'His blood be upon him,' meaning the Lord Chief Justice, who said, 'Let it! I am clamour-proof!' That she added, her father had council in Newgate, and advice from an unknown hand: that he was very much loaded with irons and very ill used, that her sister was struck by the keeper of New-

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gate, and she herself committed by the court of King's-bench, for crying out, when sentence was given, that her father was to be murdered."

Resolved, "That the Award of Execution by the court of King's-bench, against sir T. Armstrong, was a high Violation of Justice, and against the express laws of the land.—And that a Bill be brought in to reverse the Attainder of the said sir T. Armstrong."

Resolutions for raising the Navy Supply.] April 30. The commons resolved, 1. "That towards the raising 700,000*l.* for the Navy, a Tax be laid upon all ground rents for new Buildings, upon new foundations, within the bills of mortality, since March 25, 1660, except such as are within the Walls of London. 2. That Provision be made in such Bill against the increase of new buildings. 3. That towards the said 700,000*l.* an additional Excise be laid upon Beer, Ale, and other Liquors, except Coffee, Chocolate, Tea, spirituous Liquors, and low Wines, for three years, from June 24 1689, according to the rates in the Act of 29 Car. II. for an additional Excise. 4. That a Bill be brought in for applying to the public use all such pecuniary Forfeitures as have been incurred for accepting and exercising any office, or employ, contrary to the act of the 25th of Car. 2. for preventing Dangers from Popish Recusants: and that such persons, who have so acted, may not be employed for the future. (To this an Instruction was added, for a Clause to comprehend all Forfeitures on Informations then depending) And that a committee be appointed to receive Proposals for raising Money upon security of lands forfeitable in Ireland, for the present Rebellion."

Remarkable Case of Edmund Prideaux, esq.] May 1. Mr. Gwyn reported to the commons, the Case of Edmund Prideaux, esq. which in substance was as follows: "That the said Ed. Prideaux, esq. was seized at his own house, (Ford-Abbey in Devonshire) June 19, 1685, by one of the late king's messengers in virtue of a warrant signed by the earl of Sunderland, secretary of state, on suspicion of Treason, and brought to London, where he continued a prisoner at the said messenger's house, till discharged by Habeas Corpus July 14, on giving security for his appearance the next term. In evidence of which, the original warrant signed by lord Sunderland was produced. And Saywell, the said messenger, confessed the execution. The warrant was dated June 13, and the duke of Monmouth landed at Lyme the 11th. That the said Prideaux several times desired to be heard before the Council, but was constantly refused, which was confirmed by Saywell and a kinsman of the said Prideaux's, who was likewise bail for him, together with one Mr. Craig, in the sum of 2500*l.* each, Mr. Prideaux himself being answerable for his own appearance, in the penalty of 5000*l.* That the said Prideaux being committed a second time (to the Tower) his wife petitioned the king that he might be examined, but could obtain no answer; which was confirmed by one Mr. Slater. That during his second confinement, no body was permitted to see him for several weeks, and it was with great difficulty his wife at last procured leave, on the hard condition of being confined with him: which she consented to, till an indisposition obliged her to solicit a release; which was confirmed by one Mr. Slaughter. That while the said Prideaux was kept thus closely confined in the Tower, all the prisoners and condemned persons in the West, (on account of Monmouth's Invasion,) were tampered with by the agents of lord Jeffreys, with threats and promises of life, to be his accusers, as was witnessed by Mr. C. Speke before his execution; as likewise to Mr. Wm. Thompson of London, haberdasher, Mr. Joseph Standerwich, sergemaker, and Mr. Samuel Key, clothier, both of Ilminster. That the said Prideaux could never to this day discover of what he was accused. That the said Prideaux, his wife, lady Tooker his sister, and Mr. Bulstrode, one of the gentlemen ushers, having applied to several persons of quality to solicit the king in his behalf, were one and all informed by the said persons of quality, (of whom the earl of Tyrconnel is mentioned by name) 'That nothing was to be done; For that the king had given the prisoner to the lord-chancellor, (Jeffreys.)' That Mrs. Prideaux then saw the necessity of applying to the said lord-chancellor, and accordingly did by the interposition of one Mr. Jenkins and one Mr. Jennings, the last of which undertook to procure his pardon for 10,000*l.* which being demurred to on account of the extravagance of the sum, the demand was next raised to 15,000*l.* and insisted upon, on pain of his being left out of the general pardon: that thereupon by the friendship of sir Robert Dashwood the said sum was raised, and, with the abatement of 210*l.* for prompt payment of 2,400*l.* part of the said 15,000*l.* was paid to sir Robert Clayton, on account of lord Jeffreys, who, likewise, acknowledged the same; and that since the payment of the said sum, lord Jeffreys has made a purchase of two estates of the duke of Albemarle's, for which he paid about 34,000*l.*"

Ordered, "That leave be given to bring in a Bill, to charge the said two Estates purchased by the late lord Jeffreys, with the re-payment of the sum of 15,000*l.* and interest, which was by him extorted from Ed. Prideaux, esq."

A Bill from the Lords rejected.] May 4. An engrossed Bill from the lords, making and declaring it to be Treason to keep any intelligence, or maintain any correspondence with the late king James, being read a second time, a motion was made to commit it, but overruled; and then it was rejected without a division.

The King thanks the Commons for their Address for a War with France.] May 7. Mr. Hampden signified, That his majesty had been pleased to command him to acquaint the house, that he will presently issue forth a

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Declaration of War against France, and that he is encouraged thereto by the assurance this house hath given him of their assistance; and that his majesty was graciously pleased to command him to return his Thanks to the house for it.

*Debate on some hot Words that passed between Capt. Bertie *, and Mr. Harbord.*] Mr. *Hampden*, sen. I have taken notice of some angry words betwixt these two gentlemen. I move that they may stand up, man by man, and engage, upon their honours, not to proceed farther in this difference.

Col. *Mildmay*. I hope that you will not put it upon your Books, that a quarrel has been here, and your Votes to be sent abroad.

The *Speaker*. Let both the gentlemen stand up at one time, and no priority, or precedency, in the declaration.

Mr. *Harbord*. The gentleman (Mr. Bertie) is of too much honour to engage one that has not the use of either of his hands. If I have been ill-used, I cannot pass my word not to proceed farther, without satisfaction; therefore, pray consider with yourselves what you have to do. It is a hard thing for me to acknowledge I have received an injury, and require no reparation for it.

Sir *Wm. Williams*. If Mr. Harbord said, 'There were Pensioners in the Long Parliament,' your Books say so, and any man may.

Sir *Christ. Musgrave*. I am sorry for the occasion of this debate. As Harbord is a man of honour, so he has expressed great honour relating to the other gentleman. But we ought to declare what was the occasion of the misunderstanding; and, I hope, these honourable persons will declare they will proceed no farther.

The *Speaker*. The two gentlemen say nothing; you must lay the commands of the house upon them to declare.

Mr. *Harbord*. I do not conceive myself injured at all.

Mr. *Leveson Gower*. I think these gentlemen both men of honour. It is out of their power to proceed any farther. The house will take care they shall not do it. Therefore they may declare.

Mr. *Bertie*. I apprehended Harbord reflected upon me as a Pensioner. I thought I was reflected upon about the election at Westbury.

Mr. *Hampden*, sen. I heard the words of 'Pensioner—Parliament.' I remember, sir Stephen Fox had questions put to him upon every member of the house about receiving Pensions. †

Mr. *Garroway*. The whole thing these gentlemen stand upon is a punctilio, who shall stand up first and declare. I would write both their names, and put them in a hat, and let them draw out who shall declare.

Sir *Christ. Musgrave*. This is a tender point before you, and nicety in the thing. I offer it, that both may come to the table at the same time, and there underwrite, 'That they will not prosecute the quarrel any farther.'

Mr. *Bertie*. If Harbord will say he intended no personal reflection upon me, I will be satisfied.

Col. *Mildmay*. Punctilio of honour is a great point; but it is the general opinion of the house, that no words were spoken of particular reflection by Harbord, but generally as the parliament-men were called over. So many judgments having passed, methinks these gentlemen should be more free, without putting the house or themselves to farther trouble. If not you may make use of your authority.

Mr. *Colt*. The depth of the matter lies upon what will be discoursed without doors; therefore I am for your members coming to the table, as has been moved.

Mr. *Hampden*, sen. I think, it is equal for both their honours. I apprehend, Mr. Speaker, that it is your part to make an Order, 'That being informed of some angry words betwixt these gentlemen, upon which a quarrel may ensue, they be taken into custody.' This is your duty that no mischief may ensue.

The *Speaker*. It is no dishonour to put these persons under restraint, for it is your work and order; and then friends may interpose.

Mr. *Harbord*. Do you think imprisoning me would frighten me to petition for release? I do not think myself injured, and can it be thought a man of my age would quarrel when I am not injured? If you do commit me, what will become of the king's business?

Mr. *Herbert*. I would have you very careful what sort of question you put. One declares, 'he does not think himself injured:' he has done it. All know there were Pensions, and if Bertie had thought himself injured, he should have complained. I would have them both stand up, and declare, as has been moved.

Lord *Norreys* *. I remember the case of Westbury. I have heard Bertie say, 'If Harbord will declare he meant not him he is satisfied.'

Mr. *Harbord*. I have heard it said, as if the thing seems too nice; it is not that at all. I could tell tales, if I were provoked, on the other side.

Sir *Henry Capel*. I am concerned for both these honourable gentlemen; one has been my friend these many years, the other is related to me; but it is the house must be judge of one and the other. As for that of Pensions, it has been universally spoken of, and will be

* Brother to the earl of Lindsey.

† See vol. iv. p. 1141.

* Eldest son of the first earl of Abingdon; to which title he succeeded, on his father's death, in 1699. In queen Anne's reign, he was constable of the Tower, and had other high employments, as he had also in the reign of king George I. He died without issue in 1743.

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still, that the government may not be under any corruptions whatsoever. First, Harbord says, 'he is not injured;' therefore, if Bertie will say, 'he apprehends himself not reflected on.'—Or rather that the house vote there is no injury done—

Mr. *Harbord.* To put an end to this, write down what I should say, and I will say it, and obey you.

The *Speaker* proposed these words to be spoken by the two gentlemen, viz. 'I do promise, upon my word and honour, not to prosecute any quarrel, upon this occasion;' which was accordingly done.

The Bill of Rights and Succession sent up to the Lords.] May 8. A Bill for establishing the Articles presented by the Lords and Commons to their Majesties, and for settling the Crown, was read the third time.

Mr. *Godolphin.* After the limitation, in the first place, upon the king, queen and her heirs, and princess Anne, &c. when this limitation is spent, where will you go next? Where shall the crown devolve, all these dying without issue? Therefore I humbly offer this Proviso: 'Provided always, and be it hereby declared, That nothing in this Act is intended to be drawn into example, or consequence, hereafter, to prejudice the right of any Protestant prince, or princess, in their hereditary Succession to the imperial crown of these realms.'

Mr. *Garroway.* You are upon a high point. I do believe, this Proviso was brought in by this gentleman with a good intention: but, whether it be full enough not to break into the limitation of the Act? It is more expressive than the word 'hereafter.' I would not leave any loop-hole in the Bill, for any to come to the crown that you intend not. God knows how soon any body may die; therefore I would not leave it at large. Those who expect a Common-wealth in England, by failure of those you have named, I would disappoint them all. But if there be any umbrage, that the thing is not full, I would have it so, and shall agree to it.

Mr. Attorney *Treby.* This Proviso does not well agree with the Bill. He that spoke for retaining the proviso, says, 'He respects nobody by it in particular in the Bill, but to clear the matter of the Succession hereafter.' Therefore I think the Proviso is useless. Nothing, it is true, is appointed in the bill, farther than the entail upon the persons named; and I suppose (as the law does) that those you have named shall have issue; but if they have not, the common law provides for it, which is, the right heirs of the royal family: but when you say, 'a Protestant prince, &c.' it seems to exclude the right heirs that are not; and to say, as in the Proviso tendered, 'This shall not be drawn into example;' it is only a caution and admonition, that this flattering Proviso will not bind up their power. Rather than have a hand in any thing of a Republic, I would have lost my hand. Where there is a great territory, and a warlike people, as the English are, monarchy is a government fit for that part of the world; the experiment of a Commonwealth will be impracticable. This bill leaves the descent of the Succession to the common law, and no otherwise; let them be what they will, Protestants must be in the Succession; and so they will, without this Proviso.

Mr. *Hales.* In this bill, you have not thought fit to go farther than the present king, &c. and in no Acts of Succession farther than the issue of persons in being: but if you take the word 'hereafter' not to preclude any Protestant that has right to inherit, it will comprehend the prince of Wales, if he turn Protestant, and he may challenge the crown again. The words are exclusive to Papists already, and there is no reason to clog the Act with this Proviso: therefore I would reject it.

Mr. *Ettrick.* I have seen the Proviso, and I believe there is no design in it of favouring the prince of Wales. If the throne be vacant, this goes to take away the rightful succession of other princes, and is an abdication to the whole frame of the government. If there be no heirs of those in the entail, you have left the government to the people. You have great reason to countenance all vindication of yourselves from a Commonwealth; and therefore I think the Proviso fit to be received.

Sir *Christ. Musgrave.* As to the arguments of the word 'hereafter' if subject to such interpretation, then you would do well to amend it with the word 'hereafter.' I would have no doubt to affect the limitations of the Succession in the bill.

Mr. *Hampden,* sen. I never heard of this Proviso before. As it is penned, no gentleman can be for it; and, when it is mended, nobody can tell whither it will extend. You have already the Bill to establish the Government, and all people submitted to it, and you sit here by it; and now you are going over again to what you did so many months ago. You have provided against all Popish successors, and now you are going about to do it a-new. I do believe, this comes from the agency of some foreign minister; and do this now in a new bill, and then you must let the king, the queen, and princess Anne be heard. Why was not this spoken of sooner, in all this time? And now to enter into such a matter of state, now to bring in this, to put a doubt upon all you have done already! I am against it.

Mr. *Godolphin.* I hear it said, 'possibly this Proviso comes from the agency of some foreign minister.' I would have it known, I never took measures from any foreign or domestic minister. It looks, by the Proclamation, as if dominion was founded in grace—[and reads the Proclamation.] Here is no notice taken of the right of the princess of Orange's title, but of her merit only.* That

* "Whose zeal for the Protestant Religion will, no doubt, bring a blessing along with her upon this nation." See the Proclamation.

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the monarchy might be looked upon as hereditary, and not elective, was my motive to bring in the Proviso.

Sir *T. Clarges.* I conceive, the inducement to bring in this Proviso, is, because the limitation of the succession is very loose. There is no certainty of the life of any man; and I would not have the kingdom fall into a Commonwealth; which it may, if the limitation, &c. goes no farther. I heard a gentleman say, 'We did not wisely, not to keep things in our hands when we had them.' This is one reason, why I would have the words added that are moved: Instead of 'hereafter,' say 'after the limitations herein mentioned.'

Mr. *Sacheverell.* If there be any other person to be put into the limitation of the succession, pray let us know him, and not put this in general.

Col. *Herbert.* I saw a letter of a sister of prince Rupert's, wherein she was complaining of great hardship done her children, that they were not regarded in the entail of the crown; therefore I move, that they may be mentioned.

Sir *H. Capel.* By what has fallen from the gentleman, you see, foreign ministers have been doing in this matter; but you have it answered already, 'That the heirs at common law are asserted to succeed, for default of those in the entail.' I have heard it talked, as if king William was king by Divine Right, and Dominion founded in Grace; then you had best put the question, Whether the king be king, or not? Is not the clause in the Proviso, 'of not drawing it into example,' arraigning all you have done already? In the Long Parliament, when the court was carrying on their great designs of Popery and arbitrary government, gentlemen that opposed it were called Commonwealth's-men; and we are told of 'the Rebellion—and 1641—and cutting off the king's head,' and all this for opposing the court's designs, when they were about to destroy our religion and liberties. It can never be a Commonwealth. When the Succession in Hen. 8.'s time was turned this way and that way, it was put into the king's power to settle the Succession by his will: and where were the thoughts of a Commonwealth then? The first part of the Proviso is a reflection upon you for omitting it before; and the second there is no need of, or whether the prince of Wales comes in by it. Either a foreign minister is in it, or a stratagem from France; and I would throw it out.

Sir *Christ. Musgrave.* I know not why we are told of 'France, and foreign ministers.' If we have not liberty to speak, let us go home. I know not what thoughts other gentlemen have of the prince of Wales; I have none: but I know we have had a Commonwealth, and a Rebellion in 1641 also. If the thing be capable of amendment, it ought to be retained; and it is the right of every gentleman to bring in a Proviso.

Mr. *Godolphin.* I defy any man to prove any such thing as 'corresponding with a foreign minister,' or that I manage 'a stratagem from France.' Turn me out of the house, if that be proved. This Proviso was suggested to me by no man.

Sir *H. Goodrick.* When I hear this fatal rencounter we have had with France, and then these reflections here, and that we may go into the country,—these expressions are made here, with a supposition that we have no liberty of speech; but this, said at this time, when the French are upon us, and who have had too much influence here; and we are told of 1641! After the admonition of the Speaker, nothing but the Vacancy of the Throne, and the not vacancy, occasions this business; and are we returning to 'vacant,' or 'not vacant,' upon our Petition of Right? And whoever speaks against it, doubts the government. The common law leaves all to the right of the succession, and there let us leave it.

Lord *Falkland.* I disapprove of the Proviso, as it is brought in; but it may be mended, so as to justify your proceedings abroad. It is said abroad, you have settled the Government upon the king and queen; it is true, they have no children, and the princess of Denmark none that have lived, though married a great while; so there are but three lives for it; if it should happen that these should die without issue, where is the hurt of this proviso? fortify the proviso against the tale of the prince of Wales. You have Protestant princes abroad, and the more you settle this, the more you protect them.

Mr. *Hawles.* Now I understand, by mending the proviso with the word 'hereafter,' I am more against it than I was at first. There has been talk of 'government founded in grace,' but much more mischief if founded in right. This questions the whole government. There is not one word in the Act that can prejudice any foreign successor; but this, by a side-wind to come in, makes me suspect it. When the City-Charter was questioned, the king's counsel against it said, 'It was a Commonwealth in a Commonwealth;' therefore I am not for this proviso thus introduced,

Mr. *Somers.* I think there is no hurt in wholly leaving out this proviso. In the case of Hen. 4th, it was a solemn Judgment, that the throne was vacant, and then it was settled on the king's sons, and no farther by name; for it would come into its own channel by succession of descent. In the Life of Henry 7th, lord Bacon reckons it as one of the wisest actions of his reign, that he limited the crown no farther, but left it to descend. Let us tread in the steps of our ancestors; you have declared the Vacancy of the Throne; but to do this now, would bring a suspicion upon what you have done: make your succession so founded on grace, that none but protestants succeed. This strikes at the whole foundation of what you have done. Therefore lay it aside.

Mr. *Paul Foley.* This proviso is of too great importance to be brought in by a rider. It is not fit, on the sudden, to take any farther

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prospect of the limitation of the succession by a rider, but refer it to a farther consideration.

The Proviso was then rejected; after which an ingrossed Clause was offered as a rider, to be made part of the Bill, and was twice read; and is as followeth: "That, from and after this present session of parliament, no dispensation, by *Non obstante*, of or to any statute, or any part thereof, shall be allowed; but that the same shall be held void, and of no effect; except a dispensation be allowed of in such statute. Provided, that no charter, or grant, or pardon, before the 1st of June, 1689, shall be any ways impeached, or invalidated, by this act; but that the same shall be and remain of the same force and effect in law, and no other, than as if this act had never been made."—To this the house agreed. The Bill was then passed, and ordered to the lords.

12d. in the Pound Land Tax granted.] May 10. The house in a committee on the Supply, Resolved, "That a Subsidy be granted their majesties of 12d. in the pound for one year, upon all lands and houses, &c. according to the true intrinsic value; as likewise on all personal estates, household goods and stock excepted; and also upon offices and employments, those of the Army and Navy excepted:" and a bill was ordered accordingly.

The Petition of G. Speke, esq.] The same day, George Speke, esq. presented a Petition to the house, complaining of certain arbitrary prosecutions against him, by Mr. Burton and Mr. Graham, on pretence of Treason, by which means a Verdict was obtained against him, and a Fine set upon him of 2000 marks: that afterwards, by indirect means, a Bill of High-Treason was found against his wife, and that he was obliged to compound the matter at the expence of 5000*l.* and praying relief. Upon which a Committee was appointed to examine the matter of fact, and report the same to the house.

Sir H. Monson and lord Fanshaw expelled, for refusing to take the Oaths.] May 13. The house was informed that sir Henry Monson, member for Lincoln, attended according to Order.*

Mr. *Garroway*. Before you call him in, pray make some Order how to hear him, whether in his place: and what punishment you will inflict upon his refusal of the Oaths.

Sir *T. Clarges*. If he will not take the Oaths, he cannot be a member, and ought not to have a place here.

Sir *John Thompson*. I hope you will be as tender to your members, as the lords are to theirs. If he has not sat, I know not how he is culpable. The Bishops have three months time to consider, &c. and I hope you will give him that indulgence.

Sir *T. Littleton*. We are no court of justice, but we may dispose of our own members: but if he refuses the Oaths, you may send out a new writ to chuse one in his place.

Sir *T. Lee*. If your members refuse to take the Oaths, their place is void; but, as for giving him time to consider of it, it appears not yet that he refuses them. I believe, in some time, you will see the government will be obeyed; and in a few months you may see how the parliament will deal with such as are not of the same allegiance. Therefore I would give him time.

The *Speaker*. You cannot hear him in his place, neither is it proper that he answers at the bar, being yet no criminal; therefore let him come up to the table, to be tendered the Oaths there.

Sir Henry Monson was then called in, and the Speaker thus spoke to him: "The house having taken notice that you have staid a great while about the town, and have not tendered yourself to take the Oaths of Allegiance, and the Test, as you ought to have done, hath summoned you to take them."

Sir *Henry Monson*. I am sorry I cannot comply with taking the oaths, to qualify myself to sit in the house, for particular reasons, such as no way tend to the disturbance of the government; and I do submit myself to the pleasure of the house.—He then withdrew.

Mr. *Arnold*. He knows that the refusal of the Oaths is a crime at common-law, and by statute-law. I would have him made an example.

Mr. *Edw. Montagu*. I know him to be an honest gentleman, and as well inclined to the government as any man. In Cha. 2.'s time, he voted for the Bill of Exclusion, and deported himself very well. What his particular reasons are for not taking the Oaths, I know not.

Mr. *Pelham*. I believe, as has been moved, you cannot regularly commit him, and if any man have a title to your favour, he may. No man went better in the former parliaments; and I beg that no farther mark of your displeasure be upon him, than to dismiss him from your service.

Sir *Tho. Clarges*. I never knew an honester man; both the son, and the father, true public-spirited men. I have sat long in parliament with them. You know what the statute directs in this case of refusing the Oaths; therefore I would not enlarge your jurisdiction farther than sending a new writ to chuse another member in his place.

Mr. *Leveson Gower*. I have sat in several parliaments with this gentleman, but I did not expect this from him. I would have him sent for in again, and a little time given him to consider.

Resolved, "That sir Henry Monson be discharged from being a Member of the house."

Lord Fanshaw then came up to the table in the same manner.

* Notice had been taken, two days before, that sir Henry Monson and lord visc. Fanshaw, though they were resident in or about the city of London, had absented themselves from the service of the house, ever since the Oaths were enjoined to be taken; and they were therefore summoned to attend this day. See the Journal.

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Lord *Fanshaw*. I have been under a long indisposition; and though I have been about town, in the evenings, yet I was under a course of physic and diet; and since I was absent, an Act has passed; and being not qualified by taking the Oaths, I could not properly appear here.

The *Speaker*. But, my lord, are you willing to take the Oaths now you are here?

Lord *Fanshaw*. I must give a plain answer to that question: I am not satisfied to take the Oaths.—He then withdrew.

Sir *Tho. Littleton*. I suppose the house will take the same course with lord Fanshaw, that they did with sir Henry Monson.

Resolved, "That lord Fanshaw be discharged from being a Member of the house."

Debate on the Heads for a Bill of Indemnity.] May 14. The house resolved itself into a Committee of the whole house to consider of the Heads for a Bill of Indemnity *.

Sir *Wm. Williams*. I suppose you indemnify all crimes, and all mankind, unless persons and things excepted.

Sir *Rd. Temple*. Take the Act of Indemnity of Ch. 2. before you, and then you will see the Exceptions. I would extend them to as few as may be. It will be necessary to make some examples of those who have endeavoured the ruin of their country and government.

Col. *Austen*. I believe that, though persons within these walls may be concerned, it will be done with all worth; but let things find out persons.

Sir *Tho. Clarges*. That Act of Indemnity of the 25th Ch. 2, I hope, may be the better precedent. Consider, first, what Exceptions you will make; and next, what shall be pardoned; and next, consider that of 12th Ch. 2.

Mr. *Sacheverell*. Crimes of state are never to be forgiven. Name what crimes are not pardonable, and they will find out the persons.

Mr. *Carter*. If I take it right, the king has given us some measures. If offences against the government are so far in the dark, you will never find out persons. There is some discourse, without doors, that if we go about things, we shall set the whole nation on fire. I hope the king's direction will be most acceptable to the nation.

Sir *Rob. Howard*. I would willingly hear that Act read; and many things in it must be in this: but there are new-invented crimes in this age, that this Act cannot reach. We must go by things and men, and then by such things and men as no age ever saw. I know we have a large field of things and men: things of the worst nature are the largest field; therefore consider the nature of things; and if I ever move in favour of thing or man, I will tell you the reason, and unless some merit induce me to it.

Sir *Rd. Temple*. I agree with Howard in all but his last motion; not that I am an advocate for any person, but for the whole nation, if things involve many you would not. Treasons are always excepted in any general act of parliament. If we go to persons, we shall agree, for we all know them; if to things, we are in a wood, and shall never get out of it; and I despair that the Act will ever come to good. I would put men's minds in peace, and make examples only of notorious instruments.

Sir *Henry Capel*. If it be the sense of the committee, that all shall be forgiven, I am content; but what we do, is for satisfaction of the government, not that any gentleman can be pleased with this. I think to begin with things; and to prevent heats, I take this idea; as if in the country, they complain of hardships from the Judges, men of the robe, who throw dust in the eyes of juries; so if you take consideration of crimes against the laws, and the government, use the rest with what moderation you please, either by fines, or otherwise; and begin with things.

Sir *Joseph Tredenham*. Consider of what consequence it will be to make a multitude of offenders. There are many offenders, and you know who they are. We know the great men that have offended in the open light. There is no other end in this Bill, but to reconcile men's minds to the government; and those you declare obnoxious, and it is no severity upon them, we know. When France was in combustion, it was the great care of Henry 4 to punish some, and leave the rest in some degree of favour. I desire, therefore, that you will proceed against persons that have been the most notorious offenders.

Sir *Robert Cotton*. The king has sent a gracious Message to us about an Act of Indemnity. No government can be so secure, as when satisfied that they have a gracious merciful king. I know the consequence of the beginning of the last government. Those in the West did see such a shambles *, as made

* "The king thought nothing would settle the minds of the nation so much as an Act of Indemnity, with proper Exceptions of some criminals that should be left to justice. Jeffreys was in the Tower, (he died there soon after,) Wright, who had been Lord Chief Justice, and some of the Judges, were in Newgate; Graham and Burton, who had been the wicked Solicitors in the former reigns, were in prison; but the hottest of the Whigs would not set this on. They thought it best to keep many under the lash; therefore they proceeded so slowly in the matter, that the Bill could not be brought to a ripeness during this session." Burnet.

* "After Monmouth's Rebellion, Jeffreys was sent the Western Circuit, to try the prisoners. His behaviour was beyond any thing that was ever heard of in a civilized nation. He showed no mercy, and hanged up in several places about 600 persons. And the king took pleasure to relate his proceedings in the drawing room, and at table, calling it 'Jeffreys's campaign.'" Burnet.

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them think they had a Turk, rather than a Christian, to their king. If you proceed that way, of enquiring into things before persons, you will leave such jealousies in people, as that they will not think themselves safe; it will go so large, I fear it will hazard the peace and safety of the nation. The great wheels, the *primum mobiles*, that have gone so violently, and brought us into this confusion, I move that you will proceed against them, and that the king's gracious intentions may have farther effect, and those only excepted.

Mr. *Harbord.* I hope you will not pardon any of those crimes condemned by law already: they that changed their religion. You are hard put to it, to find out Money. Great men of 8, or 10,000*l.* per ann. I hope, may help you. You punish men that do not take the Oaths and the Test, and will you not punish those who have renounced God Almighty? I move they may be excepted.

Mr. *Harley.** I think the king in his Message has led us, and showed us how to proceed for satisfaction of justice. 'There is a crime,' God says, 'he will not pardon,' innocent blood. A gentleman said, 'The West was a shambles of their quarters;' and what made that shambles? It began in law. It was the common discourse amongst the ministers, that the king cannot have justice, and, in order to that, began the violation of the City-privileges, in the choice of their sheriffs.

Sir *Robert Howard.* In those that were perverted and changed their religion, it was treason. Suppose you name the man, there must be an appendix of his crime; and must that man be a sacrifice for that particular thing? So whatever man you name, you must name the thing. If there must be so general a forgiveness of all, you must go equal. You must either take notice of all, or forgive all things, that the invention of times has found out of equal nature. In the Bill for repealing col. Sidney's Attainder, you repeal the murder, but not a word of the murderers: shall it be excused upon direction of the Judge? We know what we did with lord chief justice Keeling. Try one way first; name any one man, by experiment, upon any one head.

Sir *John Lowther.* To reduce matters home, without foreign examples; we had often occasions for general pardons, formerly, when families thrust one another out of the throne, and then there was great need of pardons for the subject. When lord Strafford was charged in parliament, and other great exorbitancies, though the crimes and offenders were many, yet it was agreed, that such a number should be named, who should be excepted out of the general Indemnity. We are resolved, that these shall be prosecuted by the Attorney-General, and we need not descend into particulars here; but by general ideas, and so excepted.

Mr. *Hawles.* I am for excepting persons by particular names; but we are now only upon methods. Certainly, upon things, you intend not to pardon murder, nor robbery, &c. but now if you enquire into things, you will utterly destroy the government, which in king Charles 2's, and all king James's time, was as ill as the French government. Instance in Cornish's Trial, one of the most barbarous trials!* Had I been concerned in it, I should have thought I deserved death as much as Vrats, that killed Mr. Thynne. Make it, that the Indemnity shall not extend to such and such persons, or such and such things.

Sir *Rd. Temple.* If you name the crime, you may involve more than you think of. Do you mean every man that had the least share in it? I mean only the notorious persons. Persons have had pardons, and you must void all those pardons before you can reach them; you must not hunt the herd, you will never single any. I would begin with the Chancellor,† a lawyer, and he to destroy all law! I would except him from pardon in his honour and lands.

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* Son of sir Edward Harley, and Speaker in the two last parliaments of king William, and the first of queen Anne. In 1704 he was made Secretary of State, which he resigned in 1707. In 1710, he was appointed a Lord of the Treasury, and Chancellor of the Exchequer. The next year he was created earl of Oxford, and soon after was appointed Lord High-Treasurer, which place he resigned four days before the queen's death. In 1715, he was impeached of High Treason by the house of commons, and was soon after committed by the lords to the Tower; but being tried two years after was unanimously acquitted by his peers. Burnet's character of him at this time is as follows: "Harley was a man of a noble family, and very eminently learned; much turned to politics, and of a restless ambition. He was a man of great industry and application; and knew forms and the Records of parliament so well, that he was capable both of lengthening out and of perplexing debates." He died in 1724.

* "At the beginning of king James's reign some base men tried to save themselves by accusing others. Goodenough, who had been under-sheriff of London, when Cornish was sheriff, offered to swear against Cornish; and also said, that Rumsey had not discovered all he knew. So Rumsey, to save himself, joined with Goodenough, to swear Cornish guilty of that for which lord Russel had suffered. And this was driven on so fast, that Cornish was seized on, tried, and executed, within the week. If he had got a little time, the falshood of the Evidence would have been proved from Rumsey's former deposition, which appeared so clearly, soon after his death, that his estate was restored to his family, and the witnesses were lodged in remote prisons for their lives. Cornish, at his death, asserted his innocence with great vehemence, and with some acrimony, but a just indignation, complained of the methods taken to destroy him." Burnet.

† Jeffreys, then in the Tower.

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Sir *Henry Capel.* Temple says, 'If you proceed upon things, you will engage those you would not;' but are not you masters of your own methods? To answer Lowther, if we are to except nothing but treason, we are in a parliamentary way, and may declare treasons. As for the seizing Charters, there was nothing like that; that cuts up all your liberties by the root.

Mr. *Garroway.* I am at a stand what I shall offer for your service. If you go to capital crimes, you will be tender, and go but a little way. I would not dabble in blood; I would, from my heart, forgive them, but from pecuniary penalties I would not exempt them. You turned two out of the house yesterday, for refusing the Oaths. You will not think such a man fit for employment upon the first head, resolve what you will make capital, then for fines, and not to bear office for the future.

Col. *Austen.* I hear it said, 'that people guilty of these great crimes, are known;' but I lived in a sphere, at such a distance, I could not know them. The work has been done by a spirit in the dark, and unless you conjure down this spirit, you will never attain your end. Here has been something said of a Proclamation, &c. I would set up marks of severity for public justice; this is part of the king's directions. I would distinguish the things, and let the persons be who they will.

Sir *Christ. Musgrave.* I think there is a necessity to proceed upon persons, and not things, because you are told, from the bar, 'that possibly the offences may not be Treason, by 25 Edw. 3. but by your legislative power, you may proceed by Attainder.' If so, then proceed as tenderly as you can, because it is a declaration of Treason, and is always made as little use of as possible. For this occasion your Bills of Attainder will be without number; therefore I move that you will proceed upon persons, and not things.

Col. *Birch.* I think it absolutely necessary that you come to some conclusion before you rise. I would not leave the matter under an alarm, but, before you rise, leave them to what they shall trust to. If things must find out persons, you are in for a great while. Methinks you may go a nearer, and a surer way; for when you come to an Act of Oblivion, I suppose, (I dare not impose) you resolve to name your number capable of suffering life or limb, suppose 20 or 40, or as many as you will, (I am but for a small number for life or limb) and that blank be filled up; and, for all others, though not excepted for life or limb, yet I would except them from bearing any share of the government. The thing I drive at and design, is, to make an end. Put a certain number, and you will put the nation out of fear, and you have done your work.

Sir *Rob. Howard.* When you name Heads, let it be under death, fine, or incapacity of bearing office; then you will be easier under all the debate.

Mr. *Hampden*, sen. Where mercy is to be showed, I shall be as forward as any man, but I think justice is necessary. If you go on in this way, you will hardly come ashore. If you enumerate all sorts of crimes, you will go the farther from your end, they are so many, and of so many sorts; one of the greatest crimes that struck at your foundation was that of blood. But the foundation of these things was laid so early, that it will be a great way to look back. How many are concerned in the greater degree, and how many in the less, as *particeps criminis?* This will be a very long resolution. Now whether the men, or names of crimes, shall be first? To save a friend, that will be impossible to wrest out of human nature, but your end is to terrify men for the future. What is else the end of decimating armies? When the Act of Indemnity passed in 1660, (perhaps in as great a Revolution as ever the nation was under,) you set down 10, or 20, (I will not offer the number now) excepted for life, and so many for pecuniary mulcts, and incapacity of offices, according to degrees of crimes.

Sir *Henry Capel.* Will not you except the bloody Judges, and those who were of opinion for the Dispensing Power? When you have passed the Vote, cannot you except what persons you please.

Sir *John Lowther.* I believe it impossible to name crimes before persons; the season of the year cannot admit it. If you enquire into circumstances, the first promoter and adviser, if you keep this in suspence, it will be the greater dissatisfaction; therefore I am for naming persons before crimes.

Mr. *Garroway.* I am still of the same opinion that you will sooner come to your end, by voting Heads on capital offences, and then go to your men. I am not for 40 nor 15, but put it upon that head 'not exceeding ten;' you may have guesses at names, and put in, as in the last Indemnity, the greatest number. If named openly, there may be misfortunes and feuds of families hereafter.

The *Speaker.* Garroway mistakes. There was no such balloting as he mentions. In the Convention, it was only for sending gentlemen to go commissioners to the king into Holland. Then for excepting persons out of the Act, the first Vote was, 'but 7 for life, and 20 more for other pains and penalties,' and those were nominated in the house.

Mr. *Hampden*, sen. I rise only to rectify Powle. All the regicides in the Act of Indemnity, 1661, were notified by the crime; the rest, for other offences, were deprived of bearing offices. Many of the house may remember there was a long debate upon the persons upon whom the Proclamation went out; it was a great debate, whether they should be hanged, or not, because the Act said, 'they should not be pardoned.'

Resolved, "That it is the opinion of this committee, That, in proceeding upon the Bill of Indemnity, the Crimes shall be first declared, for which some persons shall be excepted, for

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vindication of public justice." Agreed to by the house.

May 16. The debate on the Heads for a Bill of Indemnity was resumed. The Grievances in king James's time being read,

Mr. *Harbord.* The greatest offender of all the peers is turned Papist, lord Salisbury.

Mr. *Boscawen.* According to this head, the capital offender is dead (lord chancellor Jeffreys) I would therefore have him attainted, and his estate reduced to the same condition as when he began to offend, and his posterity incapable to sit in the lords house.

Col. *Birch.* That which lies heaviest upon the nation, is blood; you have several Bills to reverse Attainders. I would have some blood, though little, rather than be stained with what they have shed.

Sir *John Lowther.* I know not how far you will proceed, whether with all equally criminal. I suppose you will make distinction of those who gave opinion for the Dispensing Power, and other offences; how far you will proceed upon it I do not know, seeing you were tender in not taking away all Dispensing Power. They cannot all be punished, therefore say how many persons you will exempt.

Mr. *Harbord.* Begin with the Lord Chancellor, attaint him first. I will say something to induce you to it. Sir Thomas Armstrong's was a most barbarous case *, and his proceedings in the West†.

Mr. *Palmes.* The last day, the Committee had order, 'that crimes should precede persons.' Determine what crimes shall be capital and what mulctuary, before you begin.

Mr. *Boscawen.* It is a harder matter to say what this man was not guilty of, than what he was. Lord Russel's Trial before—and after he came into the West.

Sir *Robert Howard.* I think you have a particular engagement to go upon this man first. In sir T. Armstrong's case he committed murder, and without the help of a jury. By the statute of Edw. 6, outlawries were confined to 12 months. He came in within that time and surrendered himself in court‡: though they alleged he was forced to it; therefore this is a particular case.

Mr. *Hawles.* Suppose you except a man that is dead, a dead man cannot be tried, nor pardoned. I think it proper to say, what persons ought to be excepted, and when you enquire, you will find the Chancellor very little more guilty, than those who lately passed the Proclamation, little less than the Dispensing Power.

Sir *R. Temple.* In the Ecclesiastical Commission he was the *sine quâ non*, and in all the business of the West. If you go on upon the thirty Heads, you will involve more than you intend. I move, "That the late Chancellor and his heirs may be excepted out of the Indemnity, in order to Attainder."

Major *Wildman.* When I consider that the house spent four hours on crimes and persons, if you keep your own Order, you are not to meddle with persons now.

Mr. *Harbord.* I would except out of the pardon all who gave opinions with my lord chancellor, for the Dispensing Power.

Mr. *Garroway.* I think the Head of the Dispensing Power is what you can best make out. That is a breach of their oath, and a great one, and of that you have the judgment of the lords and commons, for breaking their oaths. In this I care not how narrow; but as for mulcts upon them, I would not destroy families, but leave them a livelihood, and no more. For other offences, something may be said in law, but not for this.

Sir *Joseph Tredenham.* I cannot be persuaded that giving the king advice in the Dispensing Power be made capital. If we make the words general in the question, that of so many persons equally guilty, some few should be given up for a sacrifice—I believe it first an invasion of our rights, but the exercise of it long became a common error, and, I think, if they are not guilty of some other offences, this is not sufficient. I move that the Question may be a little more distinct, and say, 'as the Dispensing Power was of late executed.'

Sir *Henry Capel.* I never thought to have heard an argument within these walls for an universal Dispensing Power. We are slaves if it be so, and no freer than in Turkey. We know the king has prerogatives, but to say, 'he has a Dispensing Power,' is to say, 'there is no law.' He says, 'this Dispensing Power grew in upon us by time;' and is it therefore good because practised? The foundation of all our misfortunes is, That the Judges gave their Opinion for the Dispensing Power, and I would have them excepted in the Act of Indemnity.

Mr. *Hawles.* The Dispensing Power was the last grievance, and a bloody sacrifice to

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* "When Jeffreys came to the king (Charles) at Windsor soon after Armstrong's Trial, the king took a ring of good value from his finger, and gave it him for these services: the ring, upon that, was called 'his Blood-stone.'" Burnet. This was in 1684. Sir T. Armstrong had met the duke of Monmouth and lord Russel, &c. at Shepherds, and afterwards made his escape to Leyden, where he was betrayed and sent over by Chudleigh, the king's envoy.

† See note, p. 244.

‡ "This being a point of law, he desired counsel might be heard to argue it. Jeffreys rejected all this. He said, 'the king might either after a trial, or not, as he saw cause;' and he refused to hear counsel. Which being demanded upon a point of law, the denying it was thought a very impudent piece of injustice. And when Armstrong insisted, 'that he asked nothing but the law,' Jeffreys, in his brutal way, said, 'he should have it to the full;' and so ordered his execution within six days. And the law was executed on him with the utmost rigour." Burnet.

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the prince's pleasure, to the subversion of the whole government. The king might dispense with some obsolete laws, but no statute since 250 years ago was dispensed with till these three or four years. If this must pass for doctrine, we may go home, and the king may raise what money he pleases, and he may dispense with the Statute 'de Tallagio non concedendo,' and raise what taxes he pleases. King Ch. 1. would have been at it, and had Judges for his turn, who would have exercised this dispensing power as well as the Ship-money. Some people king James put out of office, though qualified, and some were put in unqualified. They began with Dispensing with the Act for Hackney-coaches, and by degrees would have done so with all the laws. I am for declaring this very illegal, though not all to be punished alike; for some did it out of weakness, others out of fear, and not out of the dictates of their judgment. As for the King's Counsel, if the Attorneys and Solicitors, with tufted gowns, impose upon illiterate men, pardon the illiterate, and punish the learned counsel. Just so do it; if otherwise, you throw up all your laws and statutes.

Sir *R. Howard.* I would serve you with a question, if I could. The gentleman who spoke over the way, ever gives instruction; I am sure he does to me. This is the doctrine; because a *Non obstante* may be given man by man particularly, it should be used judicially. Forbidding protestant books to be printed, and dispensing with popish books, asserted and allowed. Here is a general execution armed against us; first by books, and then by public power. The Papists are armed against us. When the Goths and Vandals over-ran Rome by an illiterate sort of men, Machiavel confesses there was a secret providence. When these men over-ran us, comes the prince of Orange and over-runs all accidents by his prudence, and saves us with deliverance from the Dispensing Power. But to wind up the question of Dispensing Power, they have done all these things to destroy, and we must look upon those who have given this opinion in judicial places, as fit to be excepted in the Act of Indemnity.

Sir *Wm. Williams.* There are two parts of the law, the constitutive part in the king, lords, and commons, and the executive part, *lex loquens*, in the judges. The other is a tacit law, and a silent law; they make the law speak, and men feel it. Is any thing more pernicious than the Dispensing Power? There is an end of all the legislative power, gone and lost. Right your legislative power, and your judicial law, and all will be set right.—[To proceed on the 18th.]

Debate on the Bill of Indulgence to Dissenters.] May 17. Mr. Hampden reports from the Committee, several Amendments made to the Bill of Indulgence.

Sir *Henry Goodrick.* I move you to give no Indulgence to them, who will give no Oath in evidence, but their Yea and Nay, Quakers: now you are about to defend the kingdom, and these men not to assist you, they may introduce Popery. Have we not known them in Jesuits habits, and were told it by Oates and Bedlowe? Under this mask, 'according to the Holy Scripture,' (the words in the Bill) you hazard the government both of Church and State.

Mr. *Paul Foley.* This is much mistaken, that the Bill gives liberty to all persons. They are not at liberty. They must subscribe, and there is a law in force already to tie them up from preaching against the Church of England; you are only tying them from teaching contrary to their subscription.

Sir *Tho. Littleton.* I am sorry to see some in the house differ from what they were at the committee: in an incomprehensible part of religion, we thought the Scriptures the best guide.

Mr. *Hampden*, jun. The Test is against the doctrine of Popery, which the Quakers take as you do, but to declare Allegiance to their majesties is not named, because they own no titles. In France there was a toleration to Protestant preachers, and they were not to preach against Popery, but they wrote against it, and so came within the penalty.

Sir *Tho Clarges.* The gentleman reporter forgets to tell you, that the Quakers said nothing of this at the committee. 'According to the Holy Scriptures,' is a large field. They must not write nor speak against the doctrine of the Scripture; which will be full of controversy.

Col. *Birch.* I beseech every gentleman to consider that those ways are commonly the best, that are most trodden. These sort of people have been in the shambles these 20 years, and I never thought they would come so near us as in this Declaration, and now under a doubtful word, to throw out all that has been done! I am glad these Articles of Religion are so far agreed to by the Non-conformists. I like the Articles of the Church of England very well, but the Scriptures much better; the Apostles still tried all things by the Holy Scriptures. Having brought the Quakers in so far, I hope, in time, we may do it farther.

Mr. *Ettrick.* I am as much for Indulgence to tender consciences as any body. If I apprehend right, they are not to preach against the Doctrine of the Church, as it is in the Articles. As to belief, believing it is as they please; the only thing to be restrained is, not to write against it, and that only to be remedied. They say, 'The Doctrine of the Trinity is no more to be proved, than Transubstantiation.' Restrain them, that by writing they may not fill the world with endless controversies and disputes.

Sir *Rob. Howard.* I am rather of opinion with the committee, than of the lords Bill. I have for 7 years desired such a bill without success. In this point, you will give occasion for dispute and controversy. To tell a man, 'he shall forbear to write against a thing,' is

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no hardship; 'but that he shall not believe it,' is. The Articles are turned to the Scripture; this is the way to ask which manuscript they are out of; and as for the Holy Ghost, they will say, it is not in Scripture, and so they will raise endless disputes. I am glad we are so large in Indulgence. I am for supporting the doctrine of the Church of England, and would have the proviso so penned, as is taught by the doctrine of the Church of England.

Sir *Rob. Sawyer.* This Bill declares the profession of faith in other words; 'you shall not preach nor write against the Church of England;' this is only a saving to the words; they will say, 'if we can prove that these Articles are not according to the Holy Scriptures, we do not write against them.' They may insinuate this. They are at liberty to write or preach, if they can prove they are not according to Scripture: else you will set up a new controversy.

Sir *Tho. Clarges.* This Bill establishes a sort of bill contrary to the Church of England. I would therefore have it temporary and probational. I cannot foresee what it may reach to, therefore I would have it for 7 years only, and to the end of the session of next parliament.

Sir *Rob. Howard.* I hope this will bring more to the Church of England, than ever were found in seven years before. This tenderness will bring more than all the persecution. This is no new thing; it has been upon the anvil these seven years without success. It was brought forward in king James's time, but they could not and durst not perform it; their Church would never suffer it: and now, in the midst of all this expectation, to dash it with a temporary clause! You had as good grant them nothing at all; thus to deceive them into an Indulgence, and cramp it with time. Let us throw no cold water upon this warm thing; and pray do not disturb it with limitation.

Sir *Tho. Clarges.* For gentlemen to say, 'That the necessity of affairs induces this,'—it is not worthy of a parliament to say so. I do not restrain it to 7 years, to diminish it; but if we do it, is it not fit for us to limit it? If I thought it not for the church, and for their benefit too—I desire the Clause may be read.

*****. To make the thing temporary, will look like design. I would have it as large as the church of England, that we may be one in affection, and one in interest. All that is said against it is, 'That an ill use may be made of this.' I hope the church of England will increase daily by it. If they make an ill use of it, there will be always enough in this house to take it away. The late king James offered them Indulgence, and, like unwise men, they ran into it to be deluded: and I look upon Penn's quakers, who were so forward then, to be papists.

Sir *Henry Capel.* Rather than the bill should not be effectual, it were better they had none at all. As for what is said of 'making it temporary, to see how they will behave themselves,' it is the only way in the world to make them a dangerous party, and against you, to throw this out. In king James's time, they, through necessity, did comply; and God knows, in 7 years, what change there may be; and men, to ease their consciences, what may they do? I would not give them occasion to throw themselves out of the protestant interest. We hear of a general Indulgence in Ireland, and here we are cutting up ourselves. Let after parliaments alter it, if they see cause; let us pass it.

Sir *Tho. Littleton.* There was great reason why the committee refused the proviso. The committee, though they were for Indulgence, were for no Toleration. The committee thought not fit to make it temporary, because then they had a time certain, and might do mischief. They may possibly send the king money.

Mr. *Godolphin.* I have a great deference for the other side. I beg pardon, if I am not convinced by their arguments. The liberty you give them may be abused, and you may have experience, in 7 years, of their deportment.

Mr. *Hampden*, sen. I am against the Proviso, and therefore against reading it. The same reason may be, to make every bill a probationer as for this: I hope the dissenters will deserve it, and you do it upon a presumption that they will be true to the government. This will go with you, though perhaps not with the common people in Westminster-Hall. At this time, they are lending a considerable sum for uses you will approve of, I am sure. I cannot answer the argument, why you should limit this act, and use these people gently for a while to persecute them afterwards. You have not repealed the laws they are punished by, but only that they shall not be prosecuted by them. The repeal of the 35th of Eliz. passed the lords house, but what became of it, I am not willing to remember: That act is the only law left that the papists might ruin the church of England by. They say, their religion is the church of England; by which, if they meet in private houses, they must abjure, or be hanged. These laws with fresh vigour may be executed against them. Let no interruption be to the joy of these people, and lay aside the Proviso.

The Proviso was rejected, and the Bill passed.

May 21. The Thanks of the house were given to admiral Herbert, (afterwards earl of Torrington) for defeating the French fleet in Bantry Bay; though, according to Burnet, it appears, at most, to have been a drawn battle. War was this day declared against France.

Debate on the Habeas Corpus Suspension Bill.] May 22. Mr. *Hampden*, sen. What I shall move you, is for the king and the nation, 'That the Act for Habeas Corpus, &c. may be suspended for a time.' The lords shortened the time of the last bill, not you. Dangers usually come not in a day; growing dangers, and the consequences, are in the

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dark, when it is too late to prevent. What is the meaning of all the intelligence that comes out of the country, of ill-affections to the government? And have we not a body here that are mutinying against the government? In Lancashire, since the Irish were disbanded, they meet in parties, and you have no way to obviate this danger but by this Bill. You are willing to go home; what will the king do? Dangerous persons will be delivered out of prison of course, if this Bill prevent it not; and they may act to the subversion of the government. If you will leave Impeachments behind you, when you are dismissed, that will be a tedious way, and they may else come out. The same common danger with you induces me to move this. And if people conspire, the king cannot keep them in prison; since they must come out by Habeas Corpus, if you prevent it not by this Bill. We are in war, and if we make only use of that remedy as if we were in full peace, you may be destroyed without remedy. This Bill is for present occasion, and for a short time only I move it.

Sir *Francis Russel.* If this were taken away, possibly I might be for it; for a Habeas Corpus is the law already, without the new Act; and when we shall see better Judges, that law will have its course. This seems as if there was a defect in the government; and I hope you will rather take away the late Act quite, than prolong the last Act that suspends it.

Sir *Robert Napier.* This mistress of ours, the Habeas Corpus Act, if we part with it twice, it will become quite a common whore. Let us not remove this land-mark of the nation, for a curse attends it.

Mr. *Boscawen.* The gentleman is rather for taking away the Habeas Corpus, than this Bill: that, I think, is a great extreme. Let the danger be ever so great, I would not dispense with that law but by parliament. If dispensed with by the executive power, it is fatal always; by the legislative power, there is no danger. I am informed, from the North, of persons having been taken upon the borders, going to side with those risen in Scotland; therefore it is best to prevent the dangers: and is it not worthy the consideration of parliament, that the soldiers be prevented going into that country? There is no law against that; but you have ground to suspect, when they talk lavishly, that a little drill of a dam may make a breach in the bank. Will those gentlemen, that are not for the Bill, take upon them the danger that may ensue upon not passing it?

Sir *John Lowther.* I can add nothing to what has been said: I shall only say, that, as for those in the North, I shall acquaint you with matter of fact. Persons were taken, who confessed they were going to king James; though some are in custody, yet some have entered col. Langston's quarters. They refuse to take the Oaths to the king and queen; and, if there be no remedy, these persons will pursue their intentions.

Sir *Joseph Tredenham.* I hope the laws and the government are not so loose, as to do any thing extraordinary upon this occasion, which is now law, and the ordinary course. I appeal to you, if going armed be not punishable by law; if in arms, in terror of the people? In these countries, if these things happen, the magistrates may remedy them by law. If every thing in parliament is well done, nothing I fear so much as establishing any thing against English liberty by act of parliament. If such a Bill be necessary, no man is more for it than myself; but if not, I hope the house will be against it. I would, therefore, farther consider the nature of this law; and, so far as consists with your safety, it may be abolished. The unsettledness of the nation, at present, is the only argument for it; but, I hope, now you will be settled, so as to have no need of it. In Rd. 2's time, the law of Provisors was made, which that king suspended; and afterwards an act with a salvo to the king's prerogative. If once you declare, that so tender a thing as this, for support of the government, may be suspended, it may make Westminster-Hall think so too, and follow your precedents. We have enemies abroad, and at home; and it is but a short time that this Bill is to continue; and it may be supposed that short time may not mend our condition. If people apprehend the government not firm, it will make them have a less heart to support it. If we will not trust it in little matters, surely we shall not in greater. Content yourselves with the laws you have already, and make no violation of them. Farther consider it.

Col. *Birch.* It is beyond my time to court 'this mistress' spoken of; but I will stick to this as much as any body. You are moved for a farther day to consider this, and this is your day. It is said, 'now the Government is settled, no need of this;' but we all know that it is not settled yet; and before it will be better, it will be worse. We are in a state of war, and worse than war. There is a great man on one side the water, and king James on the other; and a Popish party, and another, in the midst of us; and this is a state of war, sure. If this be our condition, and disaffected persons in every corner, I would know of any man how this Habeas Corpus Act is now practicable. These men that disturb the government have been picked up, but not tried, in two or three months. And you must deal sharply with them now. I think you cannot make it for a shorter time than November, at least; for we must go home, and then it will be worse. The lord-lieutenants and justices of the peace being in disorder, I hope this will keep us in safety at present.

Sir *Robert Sawyer.* Give me leave to put you in mind of a thing put into my hands. Your Bill does not take care for proof of a charge against a man. Upon a bare suspicion, information was given by a woman, 'That she was, with another gossip, in a house, where she heard declared, that there was a conspiracy

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against the present king, and that one sir Robert Sawyer did confederate with others to this purpose.' But I must declare, I never had that in my heart; and I believe that king James's return would be the destruction of England. At this rate, myself, or any man, may be clapped up in prison.

Mr. *Hampden*, sen. If such an aspersion be upon a man, he has reason to resent it; but he may remember, it is not the first time that men have, upon suspicion, been clapped up, and that gossips have given evidence, and judgment has been upon it. I cannot blame him for resenting it; but he is safe, being a parliament-man; and, I believe, nobody takes him to be in a conspiracy. Was the Act of Habeas Corpus made to shackle a good prince? You have heard of 40,000 to bail; and you would have the king do this to save the government? All this Sawyer knows.

Col. *Mildmay*. This Act will shackle the king you have confidence in. You must know that Westminster-hall Judges did that which Sawyer complains of; yet he is here. All that dare show themselves, do it now; practising, and yet they are so cunning, they do not come within danger of the law. It will not be for your service, to deny this Bill now. We desire to be at home, and it is fit we see these laws put in execution that we have made; and we may, in the interim, be in danger. Therefore let us first pass this Bill, not for a long time, but a necessary time; for six months.

Mr. *Ettrick*. I am against this Bill, because it grows still worse and worse than the first; which was, for six privy counsellors, or two secretaries of state, to commit. How far this may be, I know not. The security of all governments is the good-will of the people; and I fear this may take their good-will from you. Magna Charta was confirmed thirty-two times. I know not whether going by this, by degrees, may not tend to repeal Magna Charta. Upon what suspicions they will commit, whose they are, and on whom, we know not. It is said, 'Sawyer sits here:' You are going into the country, and I know not how soon some of us may be sent for again, and committed, perhaps till November, to a close prison all this summer. I look upon the Habeas Corpus Act as the greatest defence against oppression; and Westminster-hall may say, 'it is inconsistent, against the safety of the nation,' and a good ground for the Judges in Westminster-hall to suspend it.

Sir *Rob. Cotton*, of Cambridgeshire. As an Englishman, I am jealous of our liberties, and will not give my vote to betray them. The difference betwixt a subject and a slave is, that one has the benefit of law, the other is used at pleasure. Never since the Barons Wars did any thing come from the parliament to infringe that liberty. You are told, 'This Bill is necessary as long as the government is unsettled.' Lewis 11 of France desired only liberty to raise Money till the next parliament did sit; and he never called a parliament, and they have raised Money without parliaments ever since. I am jealous of a thing of so high importance to preserve our liberties, not to put the subjects in such a condition as to suspend their liberty for an hour.

Mr. *Roberts*.* This is not only to suspend the Habeas Corpus Act, but all the liberties of the nation. The person is committed without oath, and may live in prison. This is putting arbitrary power in the government. I am against it.

Mr. *Hawles*. I think it fit that such a Bill be brought in, in time of danger from abroad, and within the realm; and it is only to confine them from doing mischief. I am glad to see that the king and government will not do it without an act. In 1683, several were clapped up in July, and not bailed till Nov. the 8th, and had not been then, but to bring the Popish Lords out of the Tower, lord Powis, and the rest; and if a distinction could have been found out in their cases, they had not been then released. I think this power fit to be lodged for the safety of the government, and I am for enlarging the time.

Sir *Christ. Musgrave*. I am against such a Bill; it suspends not only the Habeas Corpus, but the law that was before it; (the fault of that law was, there was no punishment for the Judges) I am sorry the government is such, that men may be clapped up without oath, and detained in prison. We hear of several clapped up, and no prosecution against them, at the pleasure of those that confine them. We are told of some going to king James; if that be so, you have a law to punish them; and if any break in upon your army, it is rebellion, and you may punish them. I am not for confining men to prison, the greatest punishment next to death. I speak by experience: I have lain in prison. I hope you will not give leave to bring in such a bill.

Sir *Henry Capel*. I am glad to see the sense of the house so concerned for that law of Habeas Corpus; but it is the wisdom of all governments not to be strait-laced upon any emergency. This Bill was obtained with great difficulty, to stop the hands of persons from violence: but, in such a conjuncture as we are in, to be tied up not to do for the common safety, that people cannot be preserved by the government, that will lose the people's hearts. To do this by parliament, there is no danger; but that will be when Charters are voided, and no free Elections; and there is no danger in this parliament, freely elected. But shall those in Westminster-hall be compared to the legislative authority? But if they transgress, I hope they will be made an example. The time named in the bill, &c. is Michaelmas, or November. The Commissions of Peace are not gone out, and many will not act; the deputy-lieutenants have not had their commissions. In

* A younger son of the earl of Radnor, Vice-President of the Royal Society, &c. He died in 1717.

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the Justices there is a failure, and it may be amongst the deputy-lieutenants; those are the life of the government; and if they will not act, nor the Army is secure, what shall the government do to keep us in safety? I think, upon these circumstances, this Bill may be for our safety.

Mr. *Ettrick.* Had Capel known Westminster-hall as long as I have, nothing has been more ordinary there than to judge your laws void.

Mr. *Foley.* I know, Westminster-hall Judges have judged necessity in case of Ship-Money, and no inference that they may do it again; but that certainly we are in danger from Ireland and France, and some amongst us. If I am informed right, there were never so many Louis-d'ors in payment: a third part of great payments is made in Louis-d'ors.

Sir *Tho. Clarges.* This Bill is the most unreasonable and destructive that ever was made in parliament. We have had a struggle for it these fourteen years; and now, upon suggested necessities, to dispense with this law! I am sorry we should take example of this thing from corrupt times. I hear it said, 'We should not shackle our Prince.' In Oliver's time, in 1656, one Coney was committed by his order, and Judge Rolle delivered him. But Cromwell said, 'Princes must not be shackled.' Felony and treason are not bailable by that Act. But what other offence can it be unless that? It grieves me to hear this; would you have a man committed to prison because he wears his hat on one side? It is said, 'Persons will not acknowledge the king and take away horses; is not this treason?' If Justices of Peace are not yet named, the Secretaries of State may send all over England. And where shall we lay the consequence of the loss of Ireland, but upon the ministers of state? You are told, 'That, in Monmouth's Rebellion, men were denied copies of their Mittimus.' They had a good action, and might have had remedy. I am afraid of this. I tremble at the question, and desire no such motion.

Sir *Rob. Howard.* I hear divers arguments against this Bill; but I think it gives great veneration to the Habeas Corpus Act, that it cannot be suspended but by act of parliament. By the judges it cannot be suspended, to make this Bill an example, unless they will make an act of parliament in their bosoms. I wonder, in the last Act, that the lords should reduce the time so short as to make the Act useless; but, I apprehend it was the modesty of the style the lords used, and you see little use was made of it in that time; but I do not wonder that you provide against new accidents from the unsettlement of the whole nation. I observe, when the Prince of Orange was upon his design, if this dispensation had been made use of, many might have been clapped up (and the happy change prevented) and myself one. This is a strange distrust, in that which all mankind called then their safety. In the condition we are in, I think the Bill necessary, and I am sorry the condition of affairs makes it necessary. Other than this I know no safety; therefore I move for this.

Mr. *Harbord.* We are told, 'If 3000 men had been sent into Ireland, it might have been saved.' I would ask that gentleman, what 3000 men he would have had sent over? To send our own was not safe, and not fit to part with the Dutch. Those sent over have betrayed Londonderry, and those sent since have mutinied. I know not how Clarges can answer, that the king, persuaded by col. Lundy, betrayed Londonderry.* There are ways for the king to punish men. It is no easy matter to impeach in parliament, and there he must lie till you meet again—and the nation lost.

Sir *Tho. Clarges.* I called upon two hands, one for the Miscarriage of Ireland, and they have made the consequence upon the ministers, not I. Deputy-lieutenants may secure persons, and that is another remedy.

Mr. Comptroller *Wharton.* If Clarges says, 'The ministers were the cause of the Miscarriage of Ireland,' it may be he was one; but many were of opinion, that king James had not abdicated the crown, and that gentleman was one of those ministers.

Sir *Tho. Clarges.* I desire I may be vindicated. I am arraigned for debates; we ought to be free here; to say, 'that was the occasion of the Miscarriage of Ireland!' I desire to have

* "King James sent a small body before Londonderry, which was often changed; and by these he continued the siege above two months, in which the poor inhabitants formed themselves into great order, and came to generous resolutions of enduring the last extremities. They made some sallies, in which the Irish always ran away, and left their officers, so that many of their best officers were killed. Those within suffered little, but by hunger, which destroyed near two thirds of their number. One convoy, with two regiments and provisions, was sent to their relief: but they looked on the service as desperate, being deceived by Lundy, who was the governor of the place, and had undertaken to betray it to king James; but he, finding them jealous of him, came to the convoy, and persuaded them that nothing could be done; so they came back, and Lundy with them. Yet the poor inhabitants, though thus forsaken, resolved still to hold out, and sent over such an account of the state they were in, that a second and greater convoy was sent, with about 5000 men commanded by Kirk, who, after he came in sight, made not that haste to relieve them that was necessary, considering the misery they were in. They had a river that came up to their town; but the Irish had laid a boom of chains cross it, and had planted batteries for defending it. Yet a ship sailing up with wind and tide broke through: and so the town was relieved, and the siege raised with great confusion." Burnet.

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right done me. I except against the words of that gentleman, which were, 'Those that were of opinion that king James had not abdicated the crown, nor that the Throne was vacant, were the ministers.'

Mr. Comptroller *Wharton.* I did not say any thing of 'Debates of the house.' I said, 'Those that held that opinion were the occasion.'

Sir *Wm. Williams.* The question is plain, 'Whether this law shall be suspended for any farther time; which is so much for the safety and preservation of the kingdom. Liberty of persons is the question. Whoever is for the safety of the kingdom must be for dispensing. We were under danger when we made that Act first; now we are in a more imminent danger, in worse condition, and Scotland in no good condition; and I apprehend it more dangerous, when the town is naked, and the king naked, and the parliament gone. I think this Bill may be qualified with, 'not to be committed without Oath.'

Leave was given to bring in a "Bill to impower his majesty to apprehend and detain such persons as he shall find just cause to suspect are conspiring against the Government."

May 24. The said Bill was read the second time.

Sir *Tho. Clarges.* I cannot but be troubled at this Bill, and the more for the reasons given for it. I am not convinced of the necessity of the bill, and more concerned for the king, who has delivered us from arbitrary practices, to have this king informed, that the laws of the nation are such, that the kingdom cannot be kept in peace with them. It is so much against the privilege of the subject that any man may be imprisoned, upon a bare suggestion, and not have benefit of Habeas Corpus. Upon commitment for treason, or felony, a man cannot be bailed. If he refuse the Oaths, he may be imprisoned, and the next refusal is præmunire. I would not have any man committed, by this Bill, but by oath, and that the accuser do give security to prosecute.

Sir *Tho. Littleton.* I think there is a necessity of such a Bill; the peace of the government depends upon it, now there are a sort of people disturbing the government. I observe how tender the government is now; in the last reign, every thing was 'conspiring the death of the king,' and that was the tenour of all their warrants; and since the king has done so modestly in the use of the two last Bills, not as formerly.

Mr. *Garroway.* I would to God, the king had not been put to it to get this Bill. But abroad in the world there are strange discontents, and such language as is not fit to repeat. The French king and king James are against us, we are now near a recess, and when we are gone, I know not what combustion may be; and for us to do nothing, and not trust the king!—I know not what combustion we may fall into; we are not now barely in fears and jealousies. I hope the same hand that protected you will do it still, and I move you to commit the Bill.

Mr. *Boscawen.* I am against Sacheverell's Proviso; this Bill is for the security of the nation. It has been opened, but you are at liberty to receive it or not. I have lately received a letter: I will open it, and then you may judge whether you will read it, or not. It is not from a fiction of my own, but it is really truth. A member delivered me a letter from lord Shrewsbury's correspondence, 'that persons about the court corresponded with one in the Post-Office, and he with king James.' You must know that what is done in council the clerks know. If you receive this Proviso, cast out the Bill. That there are such as wish not well to the government is certain. By the Proviso, you must enter every Information, or nothing at all. A gentleman comes, and upon his reputation gives in information—Taken down to order by Mr. William Forster abruptly.

Mr. *Garroway.* You have spent a great deal of time in this debate of matter of order. I am sorry the question should be put, 'Whether the Proviso should be brought to the table, or no?' I never saw it denied. If he open his Proviso false, you will have satisfaction of the gentleman. Let him bring it to the table, and judge of it.

The Bill was ordered to be committed.

May 25. The above Bill was read a third time.

Mr. *Godolphin.* I have some reasons to speak against this Bill. It is the inherent right of every member to speak his mind upon bills in parliament, though he is sometimes attacked for it. I think this bill to be against the king's service; nothing is more for the disservice of the king, than to create prejudice against him, and nothing more than to think he will govern by arbitrary power in the members of the privy council, as in France. The king makes an Edict, 'Car tel est notre plaisir.' This may subject your Bill to some questions hereafter. Some time ago we did arraign the government of arbitrary power, exercised against law. We go about now to establish arbitrary government by law.

Sir *Christ. Musgrave.* The occasion of bringing in this bill was because it was thought necessary for the preservation of the government. At present, there are divers disorders, but when I consider we have got a good Fleet, and have had experience of our officers, it may secure us from foreigners, though we do not hear much of assistance from others; (but that by the by). What then must we be afraid of? It must be home Papists, not yet clapped up. It must be from some people within us. If more considerable than they are, we have an Army of 40,000 men to protect us, which may prove as fatal to those that shall attempt against the government as formerly. If we have such an army, there can be no need of such a Bill, to commit men to prison without oath, made upon suspicion only, which may be

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grounded upon malice, and be so construed as to bring misfortune to deprive gentlemen of their liberty, and, to their great charge, to be committed to the Tower; so I hope you will not part with such a law so useful to us, and so valued. It was one of the conditions of the neighbouring kingdom (Scotland) with the king, to have an Act of Habeas Corpus, as in England. They are in a state of war, and are not desirous of such a Bill as this.

Mr. *Boscawen.* If this bill deserves such a character as has been given of it, throw it out. I think it does not, and there is no invasion of the liberty of the subject; it is far from reducing us to the government of France; that king does all for his will and pleasure, we do all by the legislative power for preservation of ourselves. There is a sort of men that think of returning to king James, drinking his health, renouncing obedience to the king; the same spirit is working now as formerly. Were the days quiet, without apprehensions, to have this bill would be the greatest blemish to the government. They, in the last reign, came not to the parliament for liberty to suspend the penal laws, or this bill. This is for a time only, and far from the practice of the last government, or France.

Sir *Robert Colton.* I am as much for the settlement of the government as any man, and will do as much towards it. I know, as circumstances alter, things must alter, and if only circumstances were altered, and a man to be committed without bail, but to alter the reason of the law is hard. Laws are made that a man may be safe, that a man may know his crime before he be committed to prison, and may recover his liberty in a legal manner, as the law appoints. If this was for suspicion of fact by words, or any ground of reasonable suspicion; but when the suspicion has no ground, but upon private resentments, and that not so open, and not know why suspected, this alters the very reason of the law of Habeas Corpus. I know not how to distinguish the Liberties and Privileges of the house, as was offered yesterday for a Proviso in this Bill; but if nothing be offered upon record, who will know that it is not for words here? and the liberty of parliament will be destroyed. We have had a Proclamation about French Goods spoken of here; and the Seal; and that could not be done without advice; and how far may the advisers resentment extend to those who complained of it here, and they touched with it? This is the greatest breach of the subjects liberty without, and the liberty of the house within, I hope you will throw out the Bill.

Mr. *Hampden.* I find gentlemen tender in this bill, and I cannot blame them. All the arguments I have heard were good, if we were about to take away the law, but if gentlemen think themselves safe, what need is there of a Militia, for security of the kingdom? These Acts are like buckets for water, to stand by till you have use for them. I know, the Romans gave up all their laws for a time to the Dictators, for the preservation of the government.

Sir *Joseph Tredenham.* I cannot consent to pass this bill. When the first motion was made for this bill, it was for this end, to keep persons from imprisoning by arbitrary power, and now that persons may not claim their Habeas Corpus, when imprisoned, till the government were entirely settled; and now that it is in good forwardness, that case ceases. The privy-council, by this Bill, may imprison upon all suspicions, and the power of the bill last till Oct. next. How agreeable is this to the laws of the kingdom, to make so great an invasion upon our liberties, I must declare my dissent when the question is put; and since I have this occasion, I must make use of my liberty. I have a great respect for those that are to have this power, but such an extraordinary authority has always been found fatal to those that have executed it, and been entrusted with it, as lately was the Ecclesiastical Commission. There is a trust implied in those grants, and they are answerable to the legislative power for their actions, and it is a question whether they will approve of what they have done. The laws are not at all defective. The Habeas Corpus enacts only a declaratory law of what was the common law before the Great Charter; and the Habeas Corpus was a law to be tried in convenient time, and not to lie in prison, when committed for suspicion of treason and felony; and if this Bill make it not bailable in felony, surely not in treason, and the offence must be expressed in the body of the commitments. There has been (it is true) extraordinary bail demanded by the Judges, but whether is it more grievous to have extraordinary bail, or no bail at all, as by this bill, &c.

Sir *Wm. Williams.* I differ from that gentleman: for the very reasons he has alleged, I desire the bill should pass. Were it such a bill as to lodge an arbitrary power in the prince, I would agree to my own execution first; should a bill be brought in to place an absolute power in the prince, I would call that man to the bar who should bring it in. I take the privy-counsellors to act in execution of this bill as trustees for the kingdom of England. Had it been for my life, I would have had that clause in, that was rejected, about entering Informations into the Council-Book, &c. yesterday. Privy-counsellors are not all lawyers, and I would have that clause for their safety. Privy-Counsellors, by this bill, may commit for suspicion of treason; if they have no reason for what they do, I tell them to their faces, they must answer for it in parliament. They are not to suspect a man because he wears a white perriwig, or a mask, but upon a just cause; else he must not be questioned. This cannot secure them from answering in parliament; if they commit a person without cause, they must answer it to the law, and the kingdom. Therefore pass the Bill.—The Bill was then passed, 126 to 83.

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Titus Oates's Petition to the Commons.] May 23. A Petition of Titus Oates, d. d. was read; setting forth, "That, in 1678, he discovered a horrid Popish Conspiracy against the late king Charles and his present majesty, and the Protestant religion; of which several parliaments and courts of justice declared their belief therein, by the proofs the petitioner so fully made thereof: for which reason, and because he could not be prevailed with to desist in his discovery, the jesuits and papists pursued him with an implacable malice, suborning witnesses to accuse him of capital crimes: but, being defeated in that attempt, they procured king Charles to withdraw that protection and subsistance his majesty, at several parliaments request, had allowed him; and instigated the then duke of York to prosecute the petitioner in an action of Scandalum Magnatum, for speaking this notorious truth; viz. 'That he, the said duke, was reconciled to the Church of Rome: and that it is high treason to be so reconciled;' wherein a Verdict and Judgment was obtained for 1000*l.* and the petitioner committed to the King's-Bench: That, after this, they obtained leave from the king to prefer two several indictments against him, for two pretended perjuries, in his Evidence concerning the conspiracy: which they brought to trial in the reign of king James 2, where the petitioner was, upon the evidence of those very witnesses who had confronted him at three former trials, and were disbelieved, and through the partiality of the late lord Jeffreys, convicted of the said pretended perjuries; and received this unparalleled sentence; viz. to pay to the king 2000 marks; to be divested of his canonical habit; to be brought into Westminster-Hall with a Paper on his head, having this inscription, 'Titus Oates, convicted, on full evidence, of two horrid Perjuries;' to stand in and upon the pillory, two several days, for the space of an hour; and to be whipt, by the common hangman, from Aldgate to Newgate on Wednesday; and to be whipt again, on the Friday following, from Newgate to Tyburn; to stand in and upon the pillory five times in every year of his life: and to remain a prisoner during his life: all which was accordingly executed, with all barbarity, upon the petitioner; lying ten weeks under the surgeon's hands: but that some of them afterwards got into his chamber, whilst weak in bed; and attempted the pulling the plaisters applied for the cure of his back; and threatened to destroy him; procuring him to be loaded with irons of excessive weight for a whole year, even when his legs were swoln with the gout; and to be shut up in the dungeon; whereby he became impaired in his limbs, and contracted convulsion fits, and other distempers, to the hazard of his life: that, after all such illegal proceedings upon him, he hopes the house will vindicate the proceedings of former parliaments, and raise him from the low condition his long and expensive imprisonment hath reduced him to: and prayed the consideration of the house, and that they would recommend him to his majesty's royal protection and bounty, or to give him such other redress, as to them shall seem meet."

Ordered, That the said Mr. Oates, and his counsel, be heard at the bar of this house this day sevennight.

Exceptions voted in the Bill of Indemnity.] The same day, the house agreed with the committee appointed to prepare Heads for the Bill of Indemnity, in the following Resolutions: "1. That the asserting, advising, and promoting of the Dispensing Power and suspending of laws without consent of parliament, as it has been lately exercised, and the acting in pursuance of such pretended dispensing power, is one of the crimes for which some persons may justly be excepted out of the Bill of Indemnity, for the safety, settlement, and welfare of the nation for the future, and the vindication of public justice. 2. That the commitment and prosecution of the seven Bishops, is another crime, for which some persons may justly be excepted out of the Bill of Indemnity. 3. That the advising, promoting, and executing the Commission for erecting the late court for Ecclesiastical Causes, is another crime, &c. 4. That the advising the levying Money, and the collecting the same for and to the use of the crown, by pretence of the prerogative, for other time, and in other manner than the same was granted by parliament, is another crime, &c. 5. That the advising the raising and keeping up a Standing Army in time of peace, without consent of parliament, and the quartering of soldiers, is another crime, &c. 6. That advising, procuring, contriving and acting in the surrender of Charters, and in the alteration and subversion of Corporations, and in procuring new charters, and the violating the rights and freedoms of elections to parliament, to counties, cities, corporations, boroughs, and ports, and questioning the proceedings in parliament, and out of parliament by declarations, informations, or otherwise, are crimes, &c. 7. That undue constructions of law, and the undue and illegal prosecutions and proceedings in capital crimes, are other crimes, &c. 8. That the undue returns of juries and other illegal proceedings in civil cases, are other crimes, &c. 9. That the requiring excessive bail, imposing excessive fines, giving excessive damages, and using undue means for levying such fines and damages, and inflicting cruel and unusual punishments, are other crimes, &c. 10. That the advising king Charles 2. and king James 2. by some of their judges and council, that parliaments need not be called according to the Statutes, is a crime, for which some persons shall be excepted out of the Bill of Indemnity."

Report concerning Money issued from the Exchequer for Crown Prosecutions, &c.] Major Wildman, then, upon the motion of sir Tho. Littleton, delivered in his Report from the Committee oppointed to inspect and examine the Accounts, in the hands of Mr. Auditor Done, of all such sums of Money as have been

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paid out of the Exchequer to Mr. Graham, or Mr. Burton, or either of them, for Crown Prosecutions, &c. which was in substance, as follows: "That from the year 1678, to 1688, Mr. Burton charged himself with having received out of the Exchequer for Crown Prosecutions, &c. 42,116*l.* 9*s.* 6*d.* But was charged by sir Robert Howard's Accounts, with 42,616*l.* 9*s.* 6*d.* which makes a difference of 500*l.* unacknowledged; that he charged himself with having received of Mr. Guy for the like uses, 1,438*l.* 0*s.* 10*d.* Total of both Receipts, 43,554*l.* 10*s.* 4*d.* Total of his Discharge, 43,522*l.* 19*s.* 2*d.* Due to the king from the said Burton, (supposing his Accounts were allowed,) 531*l.* 11*s.*—That Mr. Burton and Mr. Graham charge themselves jointly, with having received from the Exchequer, 4,671*l.* 4*s.* 6*d.*—That they jointly Account for 6,935*l.* 14*s.* 6*d.* which is alledged in the said Account to be paid by Mr. Burton to Mr. Graham out of the Money charged upon the several Accounts of Mr. Burton: that they farther charge themselves with 12,466*l.* 13*s.* 6*d.* received of sundry persons, by his late majesty's direction.—That by their joint Account they alledge, they have expended in Law-Suits the full sum of 12,466*l.* with an overplus of 1,300*l.* but do not acknowledge the 600*l.* charged to them by sir R. Howard, as a reward for prosecuting col. Whitley and lord Oswelston, over and above 3 years salaries.—That it appears by the Accounts of the said Burton and Graham that most of the said Moneys were paid to witnesses, jurors, solicitors, council, and to themselves in prosecutions of pretended criminals.—That, for instance, they pretend to have expended, in prosecuting for their lives, lord Delamere, 535*l.* 6*s.* 5*d.* Mr. Hampden (for pretended correspondence with col. Armstrong) 527*l.* 1*s.* 6*d.* Alderman Cornish, 346*l.* 11*s.* Mr. Hays, 232*l.* 7*s.* 4*d.* earl of Devonshire, 218*l.* 2*s.* 5*d.* Sir S. Bernardiston, 717*l.* 3*s.* 4*d.* Sir Tho. Pilkington, 264*l.* 7*s.* 10*d.* Mr. S. Johnson, 181*l.* 16*s.* 4*d.* Dr. Oates, 3,037*l.* 9*s.* 6*d.* The seven Bishops, 183*l.* 1*s.* In procuring a Quo Warranto against the City of London, 1000*l.* 14*s.* 2*d.* and against 80 other Corporations on the like Account, 1,197*l.* 9*s.* 8*d.*—That it appears they expended several sums contrary to the laws of the land, as 3 and 5 guineas a piece to Middlesex Jury-men, and in treating them sometimes, 25*l.* sometimes 40*l.* and sometimes 50*l.* besides unwarrantable Fees to Sheriffs and other officers about juries.—That sometimes they retained 8, 10 or 11 council in a cause, to whom great fees are set down.—That great expences are charged in their Accounts for defence of several persons against their fellow subjects, for damages done them by the partizans of the designs of the late king; particularly in the case of sir John Moor, when many actions were brought against him by the citizens of London, for arbitrary proceedings in the election of sheriffs.—That it appeared on the Examination of several persons, that the said Burton and Graham then were employed in procuring, hiring, and otherwise influencing witnesses against the abovementioned pretended criminals. — In which they were assisted by sir Roger L'Estrange and one Hawes. That they offered one Cragg, a prisoner, 100*l.* quarterly if he would become evidence against the earl of Macclesfield, lord Delamere and major Wildman. But he refusing, they caused him to be kept a close prisoner in Newgate, without fire or candle, 40 weeks.—That they were the principal instruments against Stephen Colledge at Oxford; that together with the attorney general, they denied the said Colledge (who was condemned and executed) a copy of his jury, the use of his own papers, and other benefits of the law.—That several other witnesses concurred in their evidence, that the said Burton and Graham were employed in almost all the illegal prosecutions of the last 8 years.—That though no cause is assigned in the writ of the peers, for committing the late lord Jeffreys to the Tower, they find it to be notorious, that he was instrumental in the undue and illegal prosecution. &c. of lord Russel, col. Sydney, Fitzharris, Colledge, and Armstrong. And it is expressly avowed in the Accounts of the said Burton and Graham, that the said Jeffreys undertook the prosecutions in the West, after Monmouth's Invasion, and received of the said Burton and Graham, 1416*l.* 10*s.* for the job. To which may be added, that the said Burton and Graham paid to other Commissioners on the estates of attainted persons 1,117*l.* 18*s.* 10*d.* more.—That the said Jeffreys past several grants under the great seal to violate, transgress, and supersede the laws; many shocking particulars of which are enumerated, especially relating to the tyrannical powers delegated to the High Commission Court, of which the said Jeffreys was appointed to be of the quorum, and sat accordingly.—That sir Robert Wright, late lord chief justice, and sir Tho. Jenner, late one of the Justices of the Common-Pleas, had likewise a principal concern in these arbitrary proceedings; for which, in the opinion of the Committee, they were involved in the subversion of the laws and government of this kingdom."

Resolutions thereon.] Sir Thomas Littleton then moved, by the direction of the committee, "That the chairman of the grand committee of Grievances might bring in the commissions and other writings relating to the court for ecclesiastical causes. And a Resolution was passed accordingly; as likewise that schedules of Graham and Burton's accounts be delivered to the clerk of the house, to be kept for the service of the house; as likewise, that the former committee to whom it was referred to examine the cases of prisoners in the Tower, Newgate, and the Gate-house be revived, and do examine the writings taken with Mr. Brent, and make a schedule of them."

Debate on the Neglect of relieving Londonderry.] June 1. Mr. *Leveson Gower.*

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desire that it may be enquired, why the forces sent to relieve Londonderry came back again? If Ireland be lost, England will follow—And why the man that was sent to enquire the condition of Londonderry, landed not?

Mr. *Colt.* These delays must lie at somebody's door. A poor parcel of people defended themselves bravely, and gave a stand to the enemy. I would enquire who were the authors of the counsel, when the commissioners were sent to the army. That brave regiment at Stamford, instead of being sent into Ireland, was to go to Antigua, and the king knew nothing of the matter, but that it was one of the marine regiments. I would have this part of the instructions to your committee to enquire.

Mr. *Howe.* I gladly stand up to second this motion, and I hope, before we part, to second something of the same sort worthy your consideration. They that came back from Ireland perished in the ships by ill provision; those who gave this counsel are greater offenders than they that executed it. I see no justice done upon them; and I should regard them no more than a footman in the streets. I find stones thrown at my back, and I know not who does it, but if I find persons in the crowd that are my enemies, I believe they did it. King William came over and delivered us from these counsels; if we be delivered to these men, who formerly gave the ill counsel, and were of the privy-council to king James, they are not fit to be counsellors to king William. If you deprive him of these servants, who would draw the king into the same inconvenience they did king James, I hope affairs will go on much better.

Mr. *Smith**.] I heartily join in this motion, but the motion is properly "for a committee to enquire into the miscarriages relating to Ireland, &c."

Sir *Rob. Howard.* I would willingly do the king present service, but now we are to apply ourselves principally to this business. I am glad I now stand in a parliament, where I may speak for the king and country, and not by interpretation of others, that we speak against the king, if for our country; but now it is otherwise. Two things are to be done concerning Ireland; one is, what has been done amiss, who should have stayed to have relieved them; the other, the slow assistance that has been sent them. He that will not speak plainly in this, must go against his judgment; I am sure it is against mine. You have made a bill to punish Mutiny and Desertion. This of Ireland is of so ill consequence, and a question, whether this matter comes within those two heads. The king will be tender in these things. My opinion is singular, and therefore I mistrust it. Great minds do great things, by conquest of countries, but to enslave their laws and subjects is the least part of princes. Edw. 3. knew how to conquer, and had great Aids; Edw. 2. and Rich. 2. to enslave us at home. We have a king of that great mind, that, when we came into this power, he might have quickly exacted it. Therefore it is no fault of his. If there be the least doubt in executing martial law, he will not do it. But as for the lords, we have a late Judgment in Oates's Case—I will say no more of that. If you are wanting in this, you send word to Londonderry to give it up. There is a thing called Impeachment; and it is the right of the commons to do it. Though the king will not come to it, yet I am of opinion that the act itself is a desertion of Luady. If we do not our part, and are wanting in our duty to the king, we are like to have a melancholy session when we meet again. I move that a Committee may sit strictly to enquire if these men are worthy of an Impeachment. I would have a search, and a speedy search, into these things, that Ireland may see we desert them not.

Mr. *Harbord.* I hope we shall not only enquire into these, but what has been done in general, and if any person be faulty, to represent that too to the king. As to Ireland, nothing has been more industriously followed in some places, and defective in others. There was sent above 2000 *l.* in provisions, and not only to bring themselves back, but their provisions too! Either they are guilty of the greatest treason, or cowardice in the world. A Court Martial will handle these men tenderly, and I do not know whether an Impeachment will reach them; but if you do nothing, all will be lost. One came from Glasgow to Londonderry with provisions, hearing it was straitened: I sent the person to take away from the goldsmith what he pleased, and he will be at Glasgow in sixty hours. I have long foreseen such a storm as this, and I have carefully entered all this for your safety.

Mr. *Hampden*, sen. I move for instructions to your committee to enquire into a fresh pursuit about the Victuals. Some steps have been made towards this. An officer of Chester has been committed for great abuse; on complaint, the provisions he made were so bad, that a great many were little better than poisoned, and in a languishing condition. The prisons in Chester Castle broken—This is so newly done that it may be enquired into, and it is worth your enquiry what guilt lies upon the Victuals.

Mr. *Harbord.* The Victuallers of the Navy, Haddock and the rest, sent down to the person, and col. Richards told him, the seamen had rather drink their own water. The victualler's name is Anderton.

* "Mr. Smith was a man of clear parts, and of a good expression, and went through great posts in king William's reign with reputation and honour, being commissioner of the treasury, and chancellor of the exchequer: He had from his first setting out in the world been thoroughly in the principles and interests of the king, yet with a due temper in all personal things with relation to the times." Burnet. In queen Anne's reign he was chosen Speaker, in 1705, by a majority of 44 voices, in opposition to Mr. Bromley.

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Col. *Birch*. This of these Miscarriages is a great business, and, if well followed, will make the rabbit bolt. I would have instructions given to your committee to enquire into this. Now it is a good season, this month, and they may go in two or three days and come back; all that know those seas, say, they may tide it half sea over, and anchor at this time of the year. I would enquire into these things in general.

Sir *Joseph Tredenham*. If there be no other person to blame than him named, you come not to your end. Therefore I would have it enquired to the bottom.

Mr. *Boscawen*. I know not why we should be tender in naming persons. I think they should be particularly named, not only in the matter of fact, but their opinion of the whole.

The *Speaker*. The Committee are to report only the matter of fact, and it is proper for you to give opinion of the whole.

Sir *Rob. Clayton*. It is a thing admirable to me, that col. Richards, who raised the first regiment to fight against the Protestant Religion under king James, should be sent to maintain it. I would have this for Instruction to the Committee.

Mr. *Hampden*, sen. Lord Lisburne's regiment was thought fit at first to go to Antigua till it was reformed, which is now; but now another regiment is ordered.

Mr. *Harbord*. I would have it enquired into; but I have heard Mr. Blathwaite, the secretary of war, say, 'that the king would have a proper person to go, and sir George Lesley was pitched upon, but he lying near Scotland, the king had changed his mind, and that regiment was fit to go.'

Mr. *Montagu*, Clerk of the Council. I wonder gentlemen should twice repeat this of lord Lisburne. The first regiment was Lesley's, and that was ordered for Scotland, and the Papists were turned out of it; as good a regiment as his, lord Roscommon's regiment, as more proper, was ordered for Ireland.

Mr. *Howe*. I am glad of this good beginning. But I would have this Committee to examine particulars, why we had not kept the Papists for hostages, and why admiral Herbert was sent to sea with but 19 ships, when he should have had 30, and why so many ill men in all offices. It seems, those gentlemen want sense to manage, and so put in king James's officers; one bucket goes in, and another out. I would enquire into those that give these advices. It is said, in the country, we are betrayed, and if we address the king to remove those who are under Impeachments for crimes, and those that managed king James's affairs, we do but what we ought. *

Mr. *Holt*. We are beholden to Londonderry; if that had not made a good resistance king James had been at Edinburgh before now. I never expect redress of these Miscarriages, till we come to the root. If Londonderry Miscarriage be not redressed, it will come home to us. The old army, we see, is continued, and the new one laid aside. Those who were king James's creatures are now in office and employment; and those who have been of the cabinet-council with the queen.

Resolved, "That a Committee be appointed to enquire who has been the occasion of the Delays in sending Relief over into Ireland, and particularly to Londonderry.

Debate on the Heads for the Bill of Indemnity.] June 3. Mr. *Howe*. I move that you proceed upon the Indemnity; and, as for Offenders, I would shake them off gently from my hand like a viper, but when it is upon the ground I would tread upon it, and destroy it, that it may hurt no more.

Mr. *Garroway*. We find great miscarriages in the government, but we do not know where to place them; the main of our miscarriage is, that we are not quicker with our Money to supply the present emergencies of the government. As for those who have abused their trust, let better men be put in their places. The military miscarriage is the source of all. Unless we enable the king, he cannot do it. I am sorry you give the Money at four quarterly payments: I would have had it at two. I will not presume to make you a motion, but I would go on this Bill of Supply to-morrow, and on Thursday on this Indemnity.

* "The same day, Mr. Howe, vice-chamberlain to the queen, moved for an Address, to desire his majesty to remove from his presence and councils such as had been impeached by parliament, and had betrayed the Liberties of the subject: though nobody was named, yet it was easy to guess that the persons, at which the address was to be levelled, were the lords Halifax and Danby, the President of the Council, and the Speaker of the house of lords, and that not so much on account of their mismanagements in former reigns, as their ascendancy under the present. This question was debated with great warmth; and, we are told, was so little expected by the courtiers, that if the contrary party had not unexpectedly cooled, it would have been carried in the affirmative. But this is not overlikely; because, on the morrow, Mr. Howe renewed the attack, and was supported by a great many: but the opposite side requiring them to name the persons, and nobody offering to do it, the motion fell; and all that Mr. Howe and his party were able to do, after the reading the Exceptions to the Bill of Indemnity, was to carry this Resolution, "That the king's pardon was not pleadable in bar to an Impeachment." Ralph, vol. ii. p. 127.

"Myn Heer Dyckvelt discoursed Mr. Howe about the motion he had made in the house; to which he answered, he did not think it to be of any ill consequence to his majesty; and besides, that a place at court should never silence him, when the good of his country required him to speak." Life of K. Will. vol. ii. p. 119.

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June 4. Mr. *Howe.* I have an eye only to the present faults of the present government—(I mean no reflection upon the government.) But I see we have no Fleet gone out, and the French are coming out. I thought all the wisdom in the world could not have brought us to the pass we are in, much less the indiscretion. *Qui non vetat, prohibet.* I suppose it is the duty of every man in the Council to press forward in these affairs: for the miscarriage there is no question of. I should be sorry to put the scandal upon any man, but we must do something for the safety of ourselves. I look after being delivered from popery and slavery, that is all I desire to be delivered from; but I would have those persons that are obnoxious withdraw themselves, without any farther trouble; but I cannot believe that those who have sat in council with king James to the last, are fit now to be in council.

Sir *Henry Winchcomb.* I second the motion to remove all those persons, who sat in king James's council to the last.

Sir *Wm. Strickland.* I would look for what is to come, and address the king, that those who have been the authors of our former Miscarriages, may be removed from his councils.

Sir *Ralph Dutton.* It seems, by the silence of the house, nobody is in fault; therefore pray let us go home.

Sir *John Guise.* Every body is satisfied that we are governed by a sort of people who may come within the Indemnity. I know not but our misfortunes are from the same hands still. When they are at the stern of the government they may do us hurt in point of trade. The Dutch have convoys for their ships, and we have none.

Sir *Wm. Williams.* I see men have a quiet and easy spirit upon them. I will make bold to rouse them. I move for the Bill to assert our Liberties.

Mr. *Howe.* It is in vain to assert our Liberties, when men take the freedom to break them; they were always our liberties.

The Heads were then read.

Mr. *Howe.* There are a great many Heads to speak upon. If counsel have done ill, and we are merciful without justice, we shall do as ill. If it be their faults, it may move pity; if their confidence, it may move your anger. Some have been imprisoned, others whipped at a cart's tail. King James left Pardons to many: I would know therefore, if Pardons are pleadable against an Impeachment? If they are, we had as good except nobody; therefore I would know, whether they are pleadable, or no?

Sir *John Thompson.* I wonder gentlemen that carried up the Impeachment should be so silent in this matter. If this be an injury to the whole nation, I know not why they should still sit in the lords house under impeachments. I have discharged my duty to my country, do what you please.

Sir *Wm. Williams.* It has been said, 'that the laws of England are cobweb laws, that catch small flies, and let the great ones run through.' Whether a general Indemnity, or with exceptions,—that sticks in our teeth. You must either pass a round act, or leave out all. As long as this hangs in the air, men will be desperate. In the first place, take care for the crown and the government; and the next thing to do is the means, either by an universal Indemnity, or with Exceptions. If you go to particulars, then take care how far Impeachments, according to law of parliament, may be pleadable. Though I have suffered by parliaments, I will vindicate them while I live. If you will lie under your own breaches, I can shift for myself as well as another, but I will never complain of my particular. I have no Pardon. Every man needs it. I had my share—It is manifest that the commons have impeached persons. I cannot forget the parliament of 1680; what is become of those Impeachments? Not one message to the lords yet sent about them. At least we ought to come to some conclusion, how far Pardons are pleadable against an Impeachment. There are Pardons, and, I hope, learned men will not retract their opinions, that a pardon is not pleadable to an Impeachment in parliament. We are in a young government; you would not have that point lurking; either declare that it is a bar to an Impeachment, or not; and then the king may know what to do. Shall it be said this is too hot a question for the commons to touch, and leave this to the house of commons a vexatious question, to say one thing and do another? If Pardons from a prince be a bar to Impeachments, farewell to redressing Grievances! It is a vain thing ever to attempt it again; you will be like the commons in France, to give money as you are directed. I move this for posterity, that the safety of the government may not be lost.

Mr. *Hawles.* It is necessary to state this matter controverted; how a Pardon can be allowed to be a bar to Impeachment: It is necessary to determine it, if persons you except have pardons in their pockets; if so, you had better pass the Indemnity without any Exception. When the duke of Northumberland, in Edw. 6th's time, had a design to bring the crown into a protestant family, the Judges were prevailed upon, by him, to give their Opinion; who said, 'If they might have their Pardons, after they gave, they would give them.' They gave their Opinions in one hand, and had their Pardons in the other; the whole eleven Judges. If the law of parliament in Impeachments be doubtful, it is necessary to declare it. Do it now, and declare what the law is.

Col. *Birch.* I think this point was debated in the Parliament of 1679,* and I thought this would not have lost your time, being to be found fully in your Journals, without a negative. By the Pardon that great lord then pleaded, he confessed himself guilty of the

* See vol. iv. p. 1115.

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charge; that case we all know, and, when it is farther debated, I will tell you my thoughts. It will be necessary that the king should know, that no Pardon is pleadable in bar against an Impeachment of the house of commons.

Sir *Joseph Tredenham.* Though the Pardon mentioned was pleaded to an Impeachment, yet it never came to an Act of Attainder. I remember, in the debates then you had some precedents of Edw. 3, of some that pleaded Pardons. The Spencers in Edw. 2. In Rd. 2 were pardoned Impeachments in parliament. Not that I stand in justification of persons accused, but certainly it is for the advantage of the crown, and its prerogative is to its own benefit. I would have a matter of this dangerous consequence remedied by a Bill, but I believe it is not law already.

Sir *Henry Capel.* I have observed, that of late years great attempts have been made against the government to pluck it feather by feather. If we have nothing to do here but give Money, is it a parliament, or a senate of New Rome, to set rates upon fruits and chesnuts? It is of the greatest consequence in the world that saying, 'That the king does no wrong;' but who must be answerable for the Miscarriages in the government, but the ministers? In Germany, though he be a sovereign prince, he is accountable to the Assembly of Princes for his actions, where all things may be redressed. If the king's ministers, after ill administration in their places, may plead their Pardons, you have not one king but twenty. I would have but one king, and the ministers, who are our fellow-subjects, are questionable as ourselves. You are told of a Bill of Attainder, and that is a summary way of proceeding, you may read it; but if not by Impeachment, it is a good way to prevent all prosecution of offenders. Pray put the question, "That an Impeachment of the house of commons is a bar to all Pardons."

Sir *Rd. Temple.* If it be so, I would declare it, but if not, make no reflection on it. Formerly there were Appeals of Treason, and those the king could not pardon; but by Hen. 4, all appeals of treason were taken away; as well as in murder and felony, the king could not pardon. I would gladly hear the Long Robe declare that this is a law. I should be glad if we could come at it, and I should have no tenderness for those who have violated the laws and liberties. You may make void Pardons, by act of parliament, as in the case of the archbishop of York, which was voided. I profess, I am doubtful, when no man has asserted this to be the law of parliament. It is not in the house of commons to declare law but in a christian way, and an Act may be made, for the future, to settle the matter. I would not assert a thing we cannot make good elsewhere.

Sir *Wm. Williams.* I am called up by Temple: he has refreshed my memory. If a subject be murdered, the next of kin may bring an Appeal, and for that reason an Impeachment is not pardonable, because it is at the suit of the subject, and an Impeachment is an Appeal of all the commons of England. He mentioned an address in Edw. 3.'s time, 'that no Pardons should be to persons impeached,' and it was resolved in the negative, and the commons sat down by it; but God forbid, all Addresses should be objected, which are done in modesty! Can he give one instance; that ever a pardon of an impeachment was allowed in parliament? The law of reason is for it.

Sir *Rob. Howard.* I have no mind to speak for this case, that the commons should have this turned into a law; we should be so fatal a people that all your Petition of Right would be damned by it, and must that have a blemish upon it, because you desired it? And you confess it is not law, because you desire it to be made law. If that argument be so, whatever you desire to be a law, is not lawful till confirmed.

Mr. *Ettrick.* The lawyers of Westminster-Hall know little of this matter. It is of great consequence one way as the other, either to the king's prerogative, or the right of this house. As to the inconvenience, it seems extremely wrong on one side, if one way, he must have a pardon; and in pleading that pardon, if the lords should hold the law to be otherwise than you do, you will have a foil in the matter. The king's prerogative will have a great consideration here, as well as in the lords house. I move that you will go on with the Heads of the Indemnity.

Mr. *Hawles.* Something of the king's prerogative I hear offered, but if we go to the precedent or judgment upon pardons pleaded, we must go to a parallel case. This is an Appeal to an Impeachment, and then a parallel case will carry it. The king cannot pardon, in a private case of an Appeal, much less what is against the public. As to what is said of the statute which takes away appeals of treason, it was from private persons to appeal one another in parliament, as in the case of lord Mowbray, and the earl of Hereford, they were private animosities. If you allow Pardons, there is an end of the case, and they need not plead a pardon in bar, but in abatement only. In that mentioned of Edw. 3, &c. there is a little weight in that.

Mr. *Brockman.* I wonder this should be so debated now. I remember a stamped pardon by creation. I appeal whether this did not formerly occasion conferences? Lord Anglesea managed for the lords, and as great a debate was upon it then as now, and the lords agreed, 'that it was no bar to an Impeachment;' and in the next parliament was the same thing debated, and another debate did arise of the continuance of Impeachments in intermission of parliament; and it was concluded, 'That in intermission of parliament there was no discontinuance of Impeachments.' You may see the Journals, that all this is true in fact.

Sir *Christ. Musgrave.* If that be already

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settled, then the point is well declared already. I doubt the lords did not declare it.

The *Speaker.* This house did declare it, and demanded Judgment of the lords, upon lord Danby's pleading; therefore before you give your Judgment, see how the method stands upon your Books.

Sir *Wm. Williams.* Lord Stafford was impeached in one parliament, and attainted in another.

Resolved, "That it is the opinion of this house, that a Pardon is not pleadable in Bar of an Impeachment in Parliament."

Debate on the Judgments against Titus Oates.] Sir *Robert Howard* moving in favour of Dr. Oates's Judgment,* some gentlemen hissed. He said, Such gentlemen as did it I shall not be reconciled to, unless they love whipping and perpetual imprisonment, and no confirmation of the Popish Plot. I do acknowledge the lords the supreme judicature in parliament; but I know the legislative power may repeal a Judgment they have given. The lords have affirmed the Judgment in the King's Bench against Dr. Oates, and that a minister of the Church of England may be degraded of his priestly and canonical habit there: I hope gentlemen of the Church of England are not of this opinion. This was a temporal Judgment, and lord chief justice Jeffreys gave it. The lords have worded the Judgment in one place 'barbarous,' and an Algerine Judgment for an English crime. With all my heart let Oates be brought to trial for perjury, but nothing can be more fatal to the English nation, than that his testimony should be sufficient against lord Stafford, and yet he be convicted of perjury. This may confirm such Judgment for the future. The Judges all present in the lords house gave their Opinions, 'That the Judgment against Oates was contrary to law, and erroneous, and ought to be reversed.' Now I have said all this, I would not have Oates exempted from trial of Perjury, but not the Judgment of the King's Bench confirmed, to have these fatal effects; imprisonment for life, pillory, whipping, and to confirm the Popish Plot, to suppress all that, and it may be to reverse the Attainder of lord Stafford, and void that trial. The lords have found no error in the Record, and therefore have adjudged the Judgment, and affirmed all the parts of it; and now I leave you to judge, whether a Bill be not fit to be brought in to reverse all this.

Mr. *Howe.* It is strange that Oates, who has saved the nation—and if now there must be a question of the Popish Plot—I am for forgiving faults—The Romans had a respect for the geese that saved the Capitol, and would not let them be killed. At this rate, Johnson* must be whipped again. I am so much for the Church of England that I abhor all these proceedings, and so much against the two last reigns—Possibly it is the interest of some persons that no witnesses may be believed. I second Howard's motion.

Sir *Wm. Williams.* If Perjury be excepted out of the general Pardon, Oates will be excepted, and you cannot remedy it but by a Bill. I speak not for the sake of Oates, but for the lords and commons. By this great example, the little dogs will bark after the great curs. The lords have affirmed this Judgment, and there is no way to void it, but by an act of reversal. It is not fit that it be mingled with the indemnity, but be by itself a reversal, that such villainous Judgment may not be executed upon any commoner to be thus treated for the future. You have no way to void it but by act of parliament.

June 11. Sir Robert Howard reported, That he, with other members, had according to the order of the house, inspected the Journals of the house of lords, relating to the Judgments against Mr. Oates: and that the Entry therein is as followeth:

"*Die Veneris*, 31 *Die Maii*, 1689. Whereas, by virtue of their majesties writ of error, returnable into the house of peers in parliament assembled, a Record of the Court of King's-bench was brought into this court on the 4th of April 1689, with the transcript thereof, wherein Judgment is entered for and on the behalf of the late king James 2. against Titus Oates, clerk, upon a Judgment for Perjury: upon which writ, errors being assigned by the said Titus Oates, and issue joined by sir Henry Pollexfen, their majesties attorney-general; and, after hearing counsel for the said Titus Oates, no counsel appearing for their majesties, on the 26th of April last past, after due consideration had of what was offered by counsel thereupon; it is this day ordered, by the lords spiritual and temporal, in parliament assembled, That the said Judgment given, on his late majesty's behalf, against the said Titus Oates, be and is hereby affirmed; and that the Transcript of the said Record, wherein Judgment is entered as aforesaid, be remitted."

"The tenor of which Judgment, to be affixed to the Record to be sent back, followeth:

'Postea, scilicet 4to Die Aprilis, Anno

* "Oates was convicted of Perjury (in 1685,) on the Evidence of the witnesses from St. Omers, who had been brought over before to discredit his testimony: and he was condemned to have his Priestly habit taken from him, to be a prisoner for life, to be set on the pillory in all the public places of the city, and ever after that to be set on the pillory four times a year, and to be whipped by the common hangman from Aldgate to Newgate one day, and the next from Newgate to Tyburn; which was executed with so much rigour that his back seemed to be all over flead. This was thought too little if he was guilty, and too much if innocent, and it was illegal in all the parts of it." Burnet.

* Lord Russel's chaplain, most cruelly whipped, fined, pilloried, &c. for his writings, in 1686.

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'Regni Domini Gulielmi, & Dominæ Mariæ, 'nunc Regis & Reginæ Angliæ, &c. Primo 'Transcript' Record' & Process' predict' cum 'omnibus ea tangen', prætextu cujusdam bre- 'vis de Error' corrigend' pro præfat' Titu' 'Oates in Premiss' prosecut' predicti Domini 'Regis & Reginæ in præsen' Parliament' à 'predicta Curiâ dicti Domini Regis & Reginæ 'hic transmiss' fuit, prædict' Titus in eadem 'Curia Parliament' comparens diversas Causas '& Materias pro Erroribus in Record' & 'Process' prædict & Revocatione & Adnulla- 'tione Judicii prædict' assignavit; et postea, 'scilicet 31 Die Maii, Anno dicti Domini 'Regis & Reginæ supradict. in præsent' Curia 'Parliament' predict' Visis & per Curiam ibi- 'dem diligent', examinat' & plenius intellect' 'tam Record' & Process' prædict' ad Judicio 'super eisdem reddit' qu' predict' Error supe- 'rius assignat, pro eo quod videtur Cur' Parlia- 'ment' predict', quod Record' ill' in nullo viti- 'osum aut defectivum existit, & quod in Re- 'cord' illo in nullo fuit errat', ideo ad tunc & 'ibidem Cons' est p r eandem Curiam Parlia- 'ment' prædict, quod Judic' prædict' in omni- 'bus affirmetur, & in omni suo robore stet & 'effectu.'"

Sir Robert Howard also reported, That the affirmations of Judgments are entered upon the respective Rolls, upon the writs of error returned before the lords in parliament. And that there is entered, in the Journal of the lords, the Protestation following:

"The lords having heard the Opinion of all the Judges, concerning the illegality of the two Judgments against Titus Oates, upon the point of Perjury, for which he hath his writs of error into this house, to have them reversed. The house upon consideration, and after long debate, had this main question proposed, Whether to reverse the two Judgments given below against Titus Oates, in relation to the two Perjuries. The previous question was put, Whether this question shall be now put; it was resolved in the affirmative. Then the main question was put, Whether to reverse the two Judgments given below against Titus Oates, in relation to the two Perjuries. It was resolved in the negative.—Leave is given to such lords as will, to enter their Dissents: and, accordingly, these lords following do enter their Dissents in these Reasons ensuing:

1. "For that the King's-bench, being a temporal court, made it part of the Judgment, That Titus Oates, being a clerk, should, for his said perjuries, be divested of his canonical and priestly habit, and to continue divested all his life: which is a matter wholly out of their power, belonging to the ecclesiastical courts only. 2. For that the said Judgments are barbarous, inhuman, and unchristian. And there is no precedents to warrant the punishments of whipping, and committing to prison for life, for the crime of perjury; which yet were but part of the punishments inflicted upon him. 3. For that the particular matters, upon which the Indictments were found, were the points objected against Mr. Titus Oates his testimony in several of the Trials; which he was allowed to be good and credible witness, though testified against him by most of the same persons, who witnessed against him upon those Indictments. 4. For that this will be an encouragement, and an allowance, for giving the like cruel, barbarous, and illegal Judgments hereafter, unless this Judgment be reversed. 5. Because sir John Holt, sir Henry Pollexfen, the two Chief Justices, and sir Robert Atkins chief baron, with six Judges more (being all that were then present), for these and many other Reasons, did, before us, solemnly deliver their Opinions; and unanimously declare, That the said Judgments were contrary to law, and ancient practice; and therefore erroneous, and ought to be reversed. 6. Because it was contrary to the Declaration on the 12th of Feb. last, which was ordered by the lords spiritual and temporal, and commons, then assembled; and by their Declaration, ingrossed in parchment, and inrolled among the Records of parliament, and recorded in Chancery; whereby it doth appear, that excessive Bail ought not to be required, nor excessive Fines imposed, nor cruel nor unusual punishments inflicted. (Signed.) Bolton, Bridgwater, Stamford, Bolingbrook, Herbert, Vaughan, Macklesfield, Oxford, Bath, Grey, Cornwallis, R. Eure, Wharton."

The two Judgments in Hilary Term, 36 et 37 Car. 2. against Mr. Oates, for Perjury, were also read. After which,

Sir *Robert Howard* said, I should not have troubled you with this matter had I not thought it as great a thing as could come in parliament. I am zealous in one thing, not to blacken all things relating to Protestants, and whiten Papists. The rise of this began upon the condemnation and censure of two parliaments, in the business of the Exclusion of the duke of York, &c. Then it was when a Popish successor was thought no ill thing by the lords, and then it was that a Popish successor was excluded by you; when the strenuous assertion of that became a merit at court, then the attributes of a Popish successor were asserted; to secure this great business, to secure a Popish successor, came on the surrendering charters of corporations; when Judgments of law came to be given on the person, not the cause considered, there grew the rise of a Popish successor, the violation of the choice of sheriffs, corruption of judges, and their extraordinary censures, which produced this Judgment on Oates and Johnson, one of the greatest persons of the nation: he suffered under this, and was stripped of his ministry. I am heartily sorry this is come before us, but I am afraid that the affirming that Judgment condemns all we have done, and whatever the Papists have done is justified, and the Protestants condemned. Oates is the least of my thoughts, but to have Oates's Judgment confirmed, and we all reproached for it, that sticks with me. Unless we are grown fond of Jef-

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freys's Judgment, which condemns all we have done. I move for a Bill to repeal this Judgment.

Serjeant *Maynard.* We do not know yet what Judgment this is, affirmed by the lords. I desire the Judgment may be read.

Sir *Wm. Williams.* Read the Judgment, and then you may have recourse to the Record, on occasion.

Serjeant *Maynard.** I was in court when Oates was tried: he was indicted on two points; such a thing, such a time such a day, but he was not there at that time, and pleaded Not guilty. There were 18 or 19 Jesuits sworn against him from St. Omers college. I never saw evidence delivered with more vigour than that was. He would have begun with the latter, but the Chief Justice told him, 'that was his worst way—Truly if he was not at St. Omers at the time, all would fall.' I was present when he gave his Evidence in this place; he said it once, and twice, and varied it not, but some would have it a third time. I was against it. He was asked particularly here of a person of quality; he could not say it was the duke of York. His evidence was affirmed by several trials. It cannot be imagined who should suborn him. Two of his servants were suborned to swear things against him of a filthy nature. These two witnesses were examined, and it fell out, one crossed the other in the evidence. Says one, 'It is true.' Says another, 'It is not true.' Why should these two servants swear voluntarily against Oates, unless suborned? There is a man called sir Roger [L'Estrange], who, under the pretence of maintaining Church, publishes, 'That Oates alone was a single evidence against the duke of York;' and, 'that every magistrate, or chief governor, may forbid any religion, and to do this, the king has two advantages, he has law, and arms.' This sir Roger published before Oates's trial. Whether true or false, Oates was an enemy to the Popish religion. I speak this but to the purpose, eight or nine swore positively he was at St. Omers, and he had evidence to prove that he was not. He was convicted of perjury only in matter of time, which he had four or five witnesses to prove, but could not be heard.

Mr. *Hawles.* You have heard of some people that disown the government, and disperse pamphlets; and no wonder, when the worst Judgment that was ever given in law is affirmed by the lords. There is no such Judgment in law against any man, nor ever so exacted, and this gives occasion for people to talk, 'that one house was for it, and another house against it.' This verdict cost the king two thousand odd hundred pounds. I have known, that when a jury have had a guinea more given than ordinary, that verdict has been set aside as if given amongst them. If a jury goes against the humours of the court, as in Willmore's Case, and others, they are browbeaten, and as the jury are used, so are the witnesses. I would have this Judgment against Oates called 'a cruel and illegal Judgment,' and so to vote it.

Serj. *Maynard.* To vote this Judgment so here, will not do your work, for here is the Judgment of the lords against your vote; you must do more; for when there is a Record in the King's-bench, there it remains. I would not meddle with the Judgment that the lords have given, but you may complain of it as a Grievance, and may so take notice of it as a stab to our liberties. Vote this illegal, and you have the Opinion of the Judges in the lords house with you; vote it a Grievance and you may have this Judgment cancelled.

Sir *W. Williams.* I think this will be too little. The lords are a court, and have recorded their Affirmation, and it is past their power to reverse it, and it is not safe for the Judges to give another Opinion in the King's-bench; but if they have the countenance of this in the King's-bench the lords themselves may feel it. This man is a clergyman, and to be unrobed, and divested of his orders in the King's-bench, and so to continue during his life—how a court of law can do this, I am unsatisfied. But what we are to consider of is this, whether a subject should rest under that judgment. There may be a precedent for whipping, but for all these parts in one Judgment, let any man give us a precedent to square with that Judgment. It makes the Judges arbitrary, and hereafter the Judges may be most injurious in punishing, this Judgment having had this sanction in the house of peers. This is the case; and what is there fit for us to do? but one thing; and that is to reverse the Judgment, by act of parliament. Go in the ordinary way of the legislative power, and not by the declaring this or that, but a reversal of that Judgment, as illegal. If we vacate the Judgment only, that will not do; the consequence will be that we must admit it for the future. But if, by law, you declare it illegal and erroneous, there is an obvious objection, 'that the lords will not agree to the Bill;' but that is no answer to me, for the lords will do it, and have reason for it, for the Judges gave their Opinion against it, (but that is not upon record). I do not deliver it as history, but it confirms my opinion, that you have opportunity to reverse it by Bill, as illegal, and that is worth a thousand votes. The writs of error that Oates brought are upon two records, and they are both entered affirmed in the King's-bench, so that it cannot be vacated but by Bill of Reversal.

Col. *Birch.* We are now a great many gentlemen met here, who were not here in the examination of the Plot. According to my place and ability, I had in the chair much of the Examination that went through my fingers, which was so clearly proved, that all England was satisfied, as well as the lords and commons. I know no blow can be given like this to the lords and commons. We well know who they were that did what they could to make this

* "The Compiler heard him imperfectly." Grey.

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Plot a ridicule, but when a jesting business could not do, they took all the ways they could to suppress it. Under a popish prince, I expected much more than from Omers, I dare not call it St. Omers; and now that any body should be so bold as to pin this at our breeches, let them answer it. The house was dissolved, or else I had made a warm Report on the Monday. But as the commons are made black by this Judgment, so I would have a Bill to make somebody black too, and if we are denied it, to go home with honour, and they with shame. As they made us black, so the Bill will wash us, and lay the black where it should be.

Mr. *Howe.* I am sorry we are under sufferings; still the same hands are upon us. If we have a Bill to vindicate ourselves, we are sure the people will vindicate us against them. I would vote this Judgment 'illegal, cruel, and a Grievance.'

Mr. *Boscawen.* The affirming this Judgment is not for Oates's sake, but for the sake of the Popish Plot. I think there was so much art used to get that Judgment, that, for that reason, I would lay it to heart. I wish the same spirits have not the influence to do the same things again. I think it not amiss to add to the question, 'That it is your opinion that this Judgment against Oates was a design to stifle the Popish Plot, and by such arts as 3,000*l.* spent upon the Trial.' I would have something of that in the question.

Sir *Henry Capel.* This Judgment has a bottom deeper than I can well express it; it cost dissolving three parliaments. I remember when the crown and robes were carried in haste in a chair at Oxford, to dissolve that parliament, when we were upon the point of discovering Fitzharris's Plot.* If we pass this Judgment by, we approve all this. If you add to your Vote, 'upon suppressing the Popish Plot,' the world will then see the reason of your vote, and the occasion of this man's Trial, and the world will know it was upon the Popish Plot.

Mr. *Foley.* We have the Judgment before us, and what it cost, but, besides that, many have had continual pensions since. Sir Tho. Whitgrave of Staffordshire has had one, and no waiter. Therefore I move as before.

Sir *Tho. Lee.* Every body has agreed in the end; we differ only in the means. The consequence of this Judgment affirmed will affect every body, and, perhaps, if to do again, would not be done; the consequences were not foreseen as observed. 'Tis to establish a rule of punishment hereafter. But consider, Oates was not the sole evidence that convicted lord Stafford; therefore restrain your Vote to that question.

Sir *Wm. Williams.* One record of Oates's conviction relates to Ireland, the Jesuit; we have all that trial, and Whitebread, all founded on popery; do but deem the Judgment to be 'cruel and illegal,' it will do the business.

Mr. *Hawles.* I like the question relating to the Plot. I have as ill an opinion of those that gave the money as the clergyman that swore. I move that you will declare the verdict 'corrupt.'

Sir *Robert Cotton*, of Cambridgeshire. I am for the question to go single, 'illegal;' as it concerns every particular person, should you clog it with the 'corruption,' people will think it arises from corruption, and not from the nature of the thing.

Sir *Wm. Williams.* The affirming of the Judgment by the lords is the main Judgment; if you reverse only that in the King's-bench, we have not our end.

Mr. *Garroway.* If ever we obtain this Bill, you have your end; therefore avoid all words that may gain a dispute betwixt the lords and us.

Sir *Tho. Lee.* The Judgment against Johnson was but a bare misdemeanor for a libel; therefore take that within your Bill.

Sir *Wm. Williams.* Pass a Vote upon that Judgment only, for in that you may go in the ordinary way, and I believe the lords will reverse it.

The *Speaker.* That against Johnson is but barely Information for Misdemeanor. As for the degrading, that is no part of the record.

Sir *Tho. Lee.* I observe one thing, in the reversal by the lords. I would have the business of the Ship-Money looked into. They did not leave that Judgment; and to that particular judgment the thing was at an end; but they did it by a Bill. It is not your part, as the commons of England, to bring a writ of error; pray let one Bill serve for all.

Sir *Wm. Williams.* I would not have recourse to the last remedy, but in the last case: I would not do it by Bill. In the case of lord Hollis and Valentine, the Judgment was against the Privilege of the house. The Record was read in the house, and voted 'an illegal and a pernicious Judgment,' given in 5 Charles. It was voted 1667. It was a long time before that Judgment was taken notice of; and, at a conference, the commons brought the Vote to the lords, and they agreed the Judgment 'illegal and pernicious;' and voided the Judgment.

Sir *Tho. Lee.* I am not willing to run into controversy with the lords unnecessarily. I remember that Judgment in lord Hollis's case delivered at a conference. I have observed, that, in several things, the Long Parliament made Votes, and no more, and did not know the consequence. At the conference, the commons carried up the Vote; and when the lords agreed it, they began to reflect, 'We have let the commons into judicature;' therefore they put lord Hollis upon reversing it, by writ of error, thereby never to let the commons into judicature.

Resolved, "That Bills be brought in to reverse the Judgments against Mr. Oates and Mr. Johnson, as cruel and illegal."

Further Debate on the Heads for the Bill of Indemnity.] June 12. Col. *Birch.* I did

* See vol. iv. p. 1339.

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most heartily bless God, that the parliaments did what they did, in the last parliament; if they had done no more than what they did in relation to the Test, and Popish Plot, we should honour them. As to the Popish Plot, do what you will, but pray meddle not with parliaments: if any ill things were said in that parliament, let them go, and thank God things were no worse.

Sir *Tho. Clarges.* I am sorry you are diverted from the business of this day, upon account of that parliament. There was a great deal done there for the Protestant Religion; but the great fault of that parliament was, that it was filled with people depending upon the court. I cannot say there were Pensions then; that was the great fault of the Long Parliament: I hope we shall see no more such. There was an Address to the king, in that Parliament, about the Test; a worthy gentleman (Mr. Finch) was thrown out of his place about it: but if the question be, what things were spoken in that parliament (though there were things ill enough), parliaments may have great discouragements for the future. I hope those who did amiss then, have repented; and pray put no discouragements upon people for what they have said in parliament.

Serj. *Maynard.* No account is to be given out of the house, for what is done there; the account is only to be given here, else you shut up all our mouths; and I move you to put this off from your hands.

Sir *Rob. Howard.* It is not at all the question, what was said in king James's parliament, but what was done worth taking notice of against the Protestant Religion. One thought it worth their pains to turn over the Journals of the Exclusion-Parliaments; another, spirited with claret, seconds the motion. I shall never forget a worthy member (Clarges)* holding two Speeches of king James in his hand, and declaring them contradictory to one another. I shall ever honour him for it. We are ordering a committee to inspect the Journals relating to the Plot, in order to the matter yesterday relating to Oates; which I think very fit to be done.

Mr. *Sacheverell.* As for the proceedings of that parliament of king James, nobody will justify it in many respects. I would have a retrospect, in the Indemnity, of raising Money against the law; but if this should rake into a great number of persons, I am against it: but if there be one or two of them now about the king, I have no such kindness for my brother, if he stands before me in this matter; but persons that may be of use, I would be tender of; but if he give a jealousy to the nation, I would part with him, though he was my brother. Pray let nothing put an insecurity upon England's interest.

Mr. *Howe.* To explain my motion about inspection into the last parliament, they who thought the word 'Protestant' not fit to be in an Address to king James, and to leave out the word 'Popery,' are not fit to sit here; and I would take some notice of it. [He meant Mr. Bickerstaff.]

Sir *John Trevor.* I desire the Journals of that parliament may be inspected. Care was taken both at the committee, and in the house, then; and you will find the Report was never then made relating to the Popish Plot; but, in relation to the inspection, the direction was only for 'that part of the Journal relating to the Bill of Exclusion, to be expunged.'

Mr. *Godolphin.* I had the honour to be of that parliament so reflected upon. I was out of England when I was chosen. I cannot justify all that parliament did; but as for what is said, of their giving what was asked, it did neither give land-tax, poll, nor subsidy; but, that parliament was for the Protestant Religion, and suppressed two rebellions in England and Scotland: I wish other parliaments may do as well, I would not have enquiry made into mens actions in parliament, lest after-parliaments may do the same by you.

Sir *Wm. Williams.* For that very reason, I would look into what they did amiss. One parliament may question another; but to offer it as an argument, 'because others are questioned, we may be,' it is an argument of our sincerity. Let this, and all parliaments, be questioned.

Mr. *Howe.* As to what Godolphin reproaches us of 'taxes and poll,' I hope we shall never attaint men, and seize their estates, without evidence.

The Debate went off, and the King's Letter was read relating to the Indemnity, dated Jan. 22, 1688.

Sir *Robert Cotton,* of Cambridgeshire. The advice the king has given in his Letter may contribute to the forwarding the business of the Indemnity, and satisfaction of the nation. Nothing will more settle the nation, than a quiet peaceable spirit amongst ourselves; and as the king has expressed great kindness to his subjects, so I hope we shall proceed with that temper as may quiet the nation, by as much moderation and unity, in naming the persons to be excepted, as possibly the nature of the thing may bear.

Mr. *Howe.* Pray lay a foundation: no man that has a falling house will live in it with props. For want of a foundation, a new building can never be strong. As to the king's Letter about the Indemnity, I wish it may be so for ever; but, as I wish to God we may forget what is past, so likewise that we may punish those who endeavoured to destroy our liberty and religion. Some, in the worst of times, did die martyrs for it. As I would forget, so I would not confirm, all the ill things in time past. I would have as few excepted out of the Indemnity, as may be pardoned, as any man; but I would not give encouragement to exercise the same thing on to posterity. The guilty are in haste to be forgiven, and the innocent fear a return of the same ill

* See vol. iv. p. 1372.

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things. I hope we shall have a temper in what we do.

The Record of sir Edward Hales's Case* was read.

Sir *John Guise*. If you intend to except any persons out of the Indemnity, you have now an occasion. We hear who the Judges were that gave their opinions in this case. I hear Jones and Wythens were so; pray make them examples.

Mr. *Howe*. You are going upon a Company of Judges like the East India Company; they were the instruments, but those who put them upon it, and advised, are rather to be excepted; but if you name a committee to bring in the names of the counsellors, then you may chuse whom you will make examples of, and distinguish them from honest men. Those who built theirs upon our misfortune, go about still in the world, and make speeches in vindidication of what was done. I hope we shall proceed so as no man may have reason to blame us.

Marquis of *Winchester*. The Prince's Declaration turns all upon evil Counsellors: I hope they are gone away with king James; but if they still remain here, those are the persons you aim at, who sat with king James from the first to the last. I move for a Committee to inspect who those were, and then you will see whom to except.

Mr. *Hawles*. I wish you had gone on in order of time. This is the last, though first read. I think the Judges, and that Attorney and Solicitor (I know not who they were) I think they ought to be under one head, and sir Edward Hales another.

Sir *Tho. Lee*. I have sometimes sat here when mis-carriages have been spoken of, and have heard an ingenious gentleman say, 'Take them not as a whole faggot, but stick by stick, and you may break them.' Take them man by man, and you may come to your end.

Mr. *Hawles*. Let the committee enquire into the proceedings of lord chief justice Herbert, and justice Wythens, and you may know all.

Mr. *Howe*. Before you take out a stick, lay all the faggot before you. Let us know all the criminals, and then except whom you please. I move for a committee to bring in the names of them all.

The *Speaker*. That of sir Edward Hales was a fictitious plea.

Mr. *Hawles*. You will find it was a real plea: send for the clerks of that court, and they will inform you, that Hales was at 60*l*. charge in the suit.

Mr. *Foley*. I cannot see how we can proceed, unless by a Committee. Other Judges are more criminal about the Dispensing Power, than those named. Where a judge's opinion was for dispensing with one man, he is not so great a criminal as those who gave their opinions for dispensing with all. Till that be reported, you cannot give an opinion.

Sir *Wm. Williams*. I doubt we are going into a wood. You have received the Record of Hales and Godden; the committee must know the matter by record, or witnesses. It was Easter term, 2 James. Go into the courts, and you will see who were Judges that term. If I was a judge, I would confess the thing immediately. Why should things be concealed? It looks as if we were afraid; as if all were infected. All know that Herbert was the first, Wythens the second, Holloway the third, and Wright the fourth. Having said this, pray take my memory as you will take other gentlemens. As for the Common Pleas, (I think Benefield is dead) Streete spoke against it, for his reputation, the only man—(Milton and Alibone are dead)—lord chief baron Montagu left his place upon it; barons Atkins and Jenner were for it: I speak only on my memory. Certainly, when that accursed Judgment was given, those who concurred with the rest are most to blame. Herbert spoke his own judgment, prompted by the rest. No man can alter his judgment without design. A man that had this bias, and found the rest of the Judges inclined, was confirmed in his opinion. I take them to be equally culpable. Herbert is abroad, and not here to excuse himself. The rest are dead, and have answered it in another place.

Mr. *Hampden*. Let a committee be appointed to enquire into those concerned, in every head, and then report it, and you may be then ready to go on with the names of the persons. My chief reason is, I would not have you go upon persons without good proof; not upon general fame; else, instead of doing justice in parliament, you will expose their reputation.

Sir *Joseph Tredenham*. This enquiry implies, that the person so excepted out of the Indemnity shall not have the mercy of this house, nor of the whole kingdom. Every gentleman, before he gives his resolution, will satisfy himself in the matter of fact; and any man is capable of seeing the Record. As to sir Edw. Hales's case of Dispensation, books have been published, and I shall say the less of that; most gentlemen, I presume, being satisfied. Herbert has written his own Justifica-

* "Sir Edward Hales, a gentleman of a noble family in Kent, declared himself a papist, though he had long disguised it. He had an employment, and not taking the Test, his coachman was set up to inform against him, and to claim the 500*l*. that the law gave to the informer. When this was to be brought to trial, the Judges were secretly asked their opinions; and such as were not clear to judge as the court did direct, were turned out; and, upon two or three canvassings, the half of them were dismissed, and others, of more pliable and obedient understandings, were put in their places. Some of these were weak and ignorant to a scandal. The suit went on in a feeble prosecution, and in Trinity term Judgment was given." Burnet.

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tion, and it has with me some weight. As to the general Declaration, I could never find any thing in my reading to justify it, it pulling all up by the roots, and the law of no force; nothing like it but the Case in Ch. 2. Whoever will follow such a precedent, so justly decried by all people, deserves to be punished. Where there is just cause, you may proceed to exception, and let justice go with mercy.

Sir *Robt. Howard.* I suppose you will go farther than the four Judges; to the advisers and promoters of the Judgments. But how will you be informed, and bring persons to do it? The only way to do it is to name the persons visible, and who are matter of record; without a committee, it is impossible to have names. Therefore I move, that you will go upon the several Heads, and those to be referred to a committee, to name persons in relation to those heads. When these are all before you, the names may be put to the heads, and you may proceed upon them.

Sir *Tho. Lee.* I would understand what it is you are about: whether an Act of Indemnity, or pains and penalties? I conceive you are not going by impeachments, and I suppose you are not setting up an enquiry, who was of this opinion, or who that; if so you must go all England over. No man can miss the name of a man, if he please, they have been so notorious. These Heads lead you to every man you will except, and these are obvious.

Mr. *Brewer.* Whoever the judges were, they are great criminals; but I would have the offence certain. I dare say, no Judgment was ever given in the Declaration, but you may know who were judges in the King's-Bench then.

Mr. *Howe.* I suppose it is not designed that you should except all those names, and we do it at committees. We have begun this Head, though one of the last of Grievances: but I would have them distinguished from mankind. I would know those who broke the hedges, and let in the cattle; and then see who you will except, and who you will forget.

Sir *Robt. Cotton,* of Cambridgeshire. I am against a committee: I think it will alarm the whole nation. I think the former Indemnity did quiet the nation, and I hope this will. I think there needs no committee to inform you who the judges were, who the lord-lieutenants, and who concerned in corporations; persons so notorious, and so well known, that the whole nation can distinguish them; therefore I am against a committee.

Sir *Rob. Howard.* I do not apprehend the danger of a Committee. I wonder at this doctrine, 'that a committee should alarm the nation.' Is it not an alarm to the nation to have a Dispensing Power, and Judgments against corporations? I wonder this should go so high (as is said) to 'alarm the nation.' No such offences were known before; such powers were never known before: the very roots of parliament destroyed. I shall not be zealous in contending, whether you will have a committee, or no, to enquire into persons; but you must have a committee to enquire into the courts of justice; and I move, that you will go upon Names; and I think it will be for the content of the people, and not to 'alarm' them.

Mr. *Hawles.* I know not the custom heretofore, in bills of this nature; but I see no inconvenience in a committee. The officers of the court may give the same information to a committee as to the house. It is the shorter way to examine it before a committee, only to enquire into Officers and Judges. It may tend to expedite the matter.

Mr. *Ettrick.* I desire an end of this as much as any man. The Judges are going the circuits and the jails are full: your Act may come too late into the country. To enquire into the Advisers and Assisters will take up a great deal of time. Those who were notoriously exemplary I would put a mark upon; and let the others go off without any mark, and clear.

Mr. *Sacheverell:* I have not known, but if gentlemen are willing to relinquish a question never put, but that it has been laid aside; and pray put no difficulty upon the house.

The *Speaker.* I moved it; and gentlemen said, 'No, no.'

Col. *Birch.* If I knew the man, the mark you would shoot at, I could speak better. It is a plain question, 'Whether you will refer it to a Committee, or no?' If to a committee, then you are to give Instructions.

Mr. *Coningsby.* This Bill of Indemnity has been called 'a walking ghost;' and if you adjourn the debate, it will always be a shadow, and not regarded; therefore I am for going on.

The question for a Committee passed in the negative.

Sir *Tho. Lee.* I hope one day more will bring an end to your Resolutions in this matter of Names. Sir Edw. Hales has been named, and if I name a person with king James, I do nobody any harm. I name lord chief justice Herbert * to be one excepted.

Mr. *Howe.* I am against naming Herbert; it was his opinion, and he was guilty of no other fault; he has modestly retired and left our company. I would leave him out.

Ordered, "That the Officers of the King's-Bench bring in who were the Judges in sir Edward Hales's Case, &c."

Debate on King James's Declaration.] June

* "There was a new chief justice found out, very different from Jeffreys, sir Edward Herbert. He was a well-bred and a virtuous man, generous and good-natured. He was but an indifferent lawyer, and had gone to Ireland to find practice and preferment there. He unhappily got into a set of very high notions, with relation to the king's prerogative. His gravity and virtues gave him great advantages, chiefly his succeeding such a monster as had gone before him. So he being found to be a fit tool, was raised up all at once to this important post." Burnet.

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13. The house was informed that sir Adam Blair, captain Vaughan, captain Moyle, Dr. Elliott, Dr. Grey, and several others, had dispersed a seditious and treasonable Paper, printed, and entitled A Declaration of king James the 2nd.

Mr. *Hampden.* Before you read the Declaration, I would not have it pass for doctrine, that there is no treason but what is declared by 25 Edw. 3. If you take not that for granted, we shall never be safe, nor any government, if you cannot declare treason. There are other ways of destroying the government than by raising armies. But it would be strange if you should not call that treason which is tantamount to treason. Read the Declaration, but let not that pass for doctrine.

Col. *Birch.* I did expect this, and ten times more, when a Bill from the lords lies by us about Treason. I desire one of those Declarations may be read, found upon the persons taken.

Sir *Robert Clayton.* I found my lord mayor at his house, examining those persons; and the people that took them took these Declarations upon them.

The Declaration was then read, as follows:

"JAMES R. Although the many calumnies and dismal stories, by which our enemies have endeavoured to render us and our government odious to the world, do now appear to have been advanced by them, not only without any ground, but against their own certain knowledge; as is evident by their not daring to attempt the proving these Charges to the world, which we cannot but hope hath opened the eyes of our good subjects to see how they have been imposed upon by designing men; who, to promote their own ambitious ends, care not what slavery they reduce our kingdoms to: yet we cannot but rejoice that we have had an opportunity to demonstrate the falseness and malice of their pretences, since our arrival in this kingdom of Ireland, by making it our chief concern to satisfy the minds of our Protestant subjects, the defence of their religion, privileges and properties, is equally our care, with the recovery of our rights. To this end, we have preferred such of them, of whose loyalty and affection we are satisfied, to places both of the highest honour and trust about our person, as well as in our army. We have, by granting our royal protection to such whose minds are shaken by the arts of our rebellious subjects, dispelled their apprehensions, and effectually secured them against the attempts of their private enemies. Our ear hath been always open to their just complaints; and so far hath our royal mercy been extended to those who were in arms against us, that we have actually pardoned several hundreds of them; and most notorious criminals are kept in an easy confinement, as they themselves acknowledge.—We have taken care that our subjects of the Church of England be not disturbed in the exercise of their religion, the possession of their benefices and other properties; and all Protestant Dissenters enjoy the liberty of their consciences, without any molestation: and out of our royal care for the prosperity of our people, we have recommended to our parliament, as the first thing necessary to be dispatched, to settle such a security and liberty, both in spiritual and temporal matters, as may put an end to these divisions, which have been the source of all our miseries; being resolved, as much as in us lies, to entail liberty and happiness upon our people, so far as to put it out of the power of our successors to invade the one, or infringe the other. And this, we take God to witness, was always our design; of which we see our good subjects here are more and more convinced, by the great numbers of those who, having been seduced or frightened by the restless importunities of our enemies, are returned to their country and habitations, and who assure us daily, more would follow, if the ports were open: but the usurpers know too well the sincerity of our intentions, to permit a free passage of our said subjects, fearing nothing more than that their experience should undeceive the rest, who are restrained more through ignorance than any ill intention; and therefore deny them that liberty which we afford to all, whose designs, we are satisfied, tend not to the disturbance of the peace.—By this our gracious and royal care of our Protestant subjects here (where the greatest part of our nation is Catholic) and have, as well as we received the highest provocation from their fellow-subjects of contrary persuasions; so that nothing but our own inclination to justice, and desire to see our people flourish, could move us to such a proceeding; we hope our subjects in England will make a judgment of what they expected from us: and we do hereby promise and declare, That nothing shall ever alter our resolutions, to pursue such and no other methods, as by our said subjects in parliament should be found proper for our common security, peace and happiness. And that none may be debarred of assisting us in recovering our rights, and redeeming our people from their present slavery, out of any apprehension from past miscarriages, we do hereby assure all our subjects, of what quality soever, let their crimes against us be never so great, that, if, in twenty days after our appearing in person in our kingdom of England, they return to their obedience, by deserting our enemies, and joining with us, we will grant them our full pardon, and all past miscarriages shall be forgot; so little do we delight in the blood or ruin of our people. But if after this our gracious condescension, they shall still continue to assist our enemies and rebels, we do, before God, charge all the blood which shall be afterwards shed, upon them and their adherents. And, we doubt not, by the blessing of God upon our arms, to force the most obstinate to their duty; though, as we have made appear in reducing our rebellious subjects in this kingdom, we desire to use no other methods than lenity and mercy.—Given at our Court in

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Dublin Castle, the 18th of May, 1689, in the fifth year of our reign. God save the King."

Mr. *Garroway.* You have now some names of persons taken with these Declarations; and when you charge any by Bill, you may add these; and I hope it will strike such a terror upon others, that you will have the effect.

Sir *Tho. Clarges.* You have but two Christian names. I am not of opinion to impeach men by other names than their Christian names; it may be reflection upon families of the same name, who are innocent. Order my lord mayor to send their Names and Examinations to-morrow.

Mr. *Hampden.* I think we are under some dispute, to vote before we know their Christian names. I would not have imputations upon persons of the same name. You may say, 'Dr. Grey to be impeached, who spread such a Declaration;' and then to-morrow, when you please, send up an Impeachment to the lords; you may pass such a Vote and describe them.

Sir *Wm. Williams.* A person that draws his sword against the king, by description of the person, is committed. It may fall out that you cannot know his name; therefore you may commit him by description.

Serjeant *Maynard.* I am against Impeachment of these persons, that they may be punished. These Papers are high treason; an Impeachment may walk long, before it comes to issue. Prosecute them by way of indictment, and then you may punish them severely and legally. Let the Judges lay it as a charge upon the Attorney and Solicitor-General, that they effectually prosecute them at common-law.

Mr. *Garroway.* You see many people abroad in the nation, who refuse to own the government. We cannot give too much assistance to support it. I desire this prosecution may be by Impeachment, and not by indictment, that the world may see you stand by your government.

Sir *Tho. Clarges.* I was of opinion, that impeachment was the best way for your justice. I am altered since, from what I have heard, viz. 'That you should bear your testimony of it.' If you send to the lords, to order the Attorney-General to prosecute, you may have speedy justice, the term now in being, three or four days in term time; indictments may be found by the grand jury, and you may have speedy trial, and speedy execution. I am afraid that these things have gone all over the nation, and I would have prosecution at the assizes all over the nation. Whereas the danger is great, so the resentments should be quick, and the like prosecution all England over.

Sir *Rob. Howard.* If any thing be done against the government, I would bring in the old manner of Impeachments; nothing will settle your government better.

Sir *Henry Capel.* This is a point of safety, and that has led the house into this of Impeachment. As for sending to the lords, to order the Attorney-General to prosecute these, have we not a king to command his officers, and judges to try them? For many reasons offered, and many more that may be, I am for impeaching.

Sir *Wm. Williams.* If you proceed against him in the King's-bench, he cannot be tried till next term. If he be tried in London by a special Commission of Oyer and Terminer,—I like well trial in the King's-bench, solemn in the face of the kingdom; but if he be impeached in the name of all the commons of England, it gives a dignity and honour to the king. If impeached by the commons, it is not tied to this or that county; 'tis left indefinite and not confined to the formalities of other courts.

Sir *Tho. Littleton.* The greatest consideration of all with me is, Whether the house of commons dare take notice of this? and men may take farther encouragement, and say, 'it seems the house of commons dare not meddle, but put it to the inferior courts;' therefore I am for Impeachment.

Serj. *Maynard.* I have as much zeal for the punishment of these men as any man here, and am grieved at the slowness of proceedings; but when you may do it by law—This act was done in London, in a tavern in London—It may be, he cannot be tried in eight or ten days; but here is a clear offence: when you have brought it up to the lords, the men are in their judgment, not yours. One man tried and condemned at common law, will work more upon the people than ten Impeachments. If once you make that an example, not to try without the lords, I do not know the consequence. I come here with grief of heart, to be here five months, and do nothing at all of this nature. Therefore I would not go before the lords, when the law is clear, and may be tried by juries.

Mr. *Hawles.* The question is, Whether you will go by impeachment, or indictment? I am for impeachment. I do not think this to be a plain case of treason, by 25 Edw. 3. I do say, no court can judge this offence to be treason; and that statute did plainly not bind the superior court of parliament, but the inferior only. Look but over the statute of 25 Edw. 3, and you will not find any words to reach this Declaration, &c. to be treason. The proper way is, to judge this high treason; and therefore I am for proceeding by Impeachment.

Resolved, "That the persons who dispersed the Declaration, viz. Dr. Elliot, capt. Vaughan, sir Adam Blair, capt. Mole, Dr. Grey, &c. be impeached of High-Treason."

Mr. *Howe.* Several are now in town who stand charged upon former Impeachments. I think it fit that the house give their opinion, 'That all such persons withdraw themselves from Court.' Out of my duty to my country, I shall name them, if you please, that they may be secured.

Col. *Mildmay.* For what they have done

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formerly, lest they should attempt the same again, and it be too late to remedy it, I desire you would remove them from the king and his councils.

Mr. *Hawles.* It was the opinion of lord chief justice Hale, 'That if the government must be subverted, it must come from Westminster-Hall.'—Fitzharris's Case and lord Russel's—Upon the business of the Charters, some went out, and others came in; but only when it came to the Dispensing Power, they could not swallow that. Whilst there are lawyers, they will be tools to do as they are bidden. The Trial of Fitzharris was one of the wickedest things, and that about lord Russel's Jury you know, and the giving new Charters to have voted a parliament after their mind. You have been well moved to know who were the privy-council at that time.

Sir *Wm. Williams.* It is not the cards, nor the dice, they are but the tools; it is the hand that cheats you. I have gone post often, and have found a good horse under me, but he would go no farther than his stage. You ought to go to the fountain, the great Council, in the Declaration, and they will betray one another: we must go to the visible Council; the committee of Trade, the Cabinet-Council. The first thing done was the Trial of Fitzharris, but they would not destroy the City-Charter then; the post-horse failed them—He did afterwards destroy the Charter, and break that, but was not so profligate as to break all the laws. Charge them, and they will accuse one another.

Mr. *Garroway.* I think, we are not going the right way. When the Judges shall be here, ask them any question you think fit. I have seen lord chief justice Keeling sent for hither, about calling 'Magna Charta,' 'Magna Farta.' They will tell you who did it.

The *Speaker.* Such as have been Judges you may send for by warrant? but to such as are attendants on the lords you send only an intimation, lest exceptions should be taken by the lords.

Mr. *Hampden*, jun. These Judges laid it down for doctrine, 'That there was no Treason but against the person of the king; the king therefore might pardon him.' But there is a treason against the realm, which the king cannot pardon; the king cannot be without a realm. You have it in parliament declared, 'That an Impeachment continues from parliament to parliament:' will you suffer the Popish Lords to go about under your impeachment, and not be prosecuted? I move, that you will appoint a Committee, to enquire by whose authority those lords were delivered out of the Tower, illegally; and send to the lords to commit them.

Sir *Christ. Musgrave.* The question is, for sending for the Judges. Garroway has put you in the way. For method's sake, divide the question; one by way of Order to appear, and the other by way of Desire to appear.

Mr. *Garroway.* One formerly informed against one of your members (sir Rd. Temple) for being an undertaker to carry on a business with lord Bristol.* The house sent to lord Bristol, by Mr. Vaughan, to know whether his lordship said any such words to the king. Lord Bristol prayed, 'that he might come into the house to give an account of it, because he might speak his own words.' He came, and gave others little satisfaction abroad, and us as little here; and I do not doubt but the Judges will give you the same satisfaction.

Mr. *Leveson Gower* names Mr. Justice Dolben, Mr. Justice Gregory, Mr. Baron Neville, and Mr. Justice Powell, to be sent for to come to the house.

Sir *Wm. Williams*, names sir Francis Pemberton, sir Creswell Levens, sir Thomas Jones, Mr. Serjeant Montagu, sir Francis Wythens, also, sir Rd. Holloway, to know who gave the Instructions to the Judges. &c.

Mr. *Howe.* I know not how to take notice of the Cabinet-Council, nor what it means; I know not whether it be a lawful council; I know not whether it be a crime to be a cabinet-counsellor: but I would desire the king to deliver us from those that were Counsellors then, that we may be troubled with them no more.

The above Judges, and others, were then ordered, or desired, to attend the house to-morrow.

The Judges examined touching the Dispensing Power, &c.] June 14. The Judges, &c. as above-mentioned attended, according to order. Lord Chief Baron Atkins, Mr. Justice Dolben, Mr. Baron Neville, Mr. Justice Powell, and Mr. Justice Gregory, were severally called in.

The *Speaker.* My Lord Chief Baron, the occasion of the intimation the house gave you of their desire, &c. is to be informed of some things. They would know, why, in Ch. 2's time, you were turned out of your Judge's place?

Lord Chief Baron *Atkins.* "I suppose there were several reasons. There was a great Cause depending betwixt sir Samuel Barnardiston and Mr. Soames. The cause was of great expectation and consequence in the King's-bench. Judgment was given for the plaintiff, Barnardiston. After that, Soames brought a writ of error. Eight Judges argued, (there was a great appearance) and Ellis and myself argued to affirm the Judgment; others, to reverse it; which, I suppose, was not acceptable to some great persons then. There were other things objected against us. In the circuit, I declared against Pensions to parliamentmen, and there was great complaint against me. I went the Oxford circuit with Scroggs, where Scroggs called Bedlow 'a perjured person.' I told him, he had passed Judgment upon his Evidence. There was a Petition from my lord mayor, &c. for the sitting of Parliament. I was willing to avoid all occasion of discoursing with Scroggs. He said,

* See vol. iv. p. 269.

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'That Petition was high-treason.' At last, I affirmed, 'That the people might petition the king; so that it was done without tumult, it was lawful;' and of this he sent word to the court. But what filled up the measure was about the king's Power, 'Whether he might not prevent printing and publishing, &c. by Proclamation.' I said, 'It was most proper for a parliament—If the king would do the work of a parliament, we were like to be without a parliament.' I said, 'In case the people do represent things by false news, they may be met with, and punished.' I advised against the opinion. There was another lay heavy upon me (lord chief justice North) and it was about selling Offices. I found they were discontented at me, and I impute it to the two Chief Justices."—He then withdrew.

Mr. *Garroway.* I would not travel now into the business of Pensions; that may be hereafter; but I would principally drive at the discovery of those who advised the Dispensing Power. This, he has told you, was as to other cases.

Mr. *Howe.* All these Pensions were for the advantage and interest of France; if they had not been supported by France, they could never have brought us to this. It was the beginning of our woes; and now especially, when we have a war with France, I would have those who corresponded with France excepted.

Sir *John Lowther.* Such a question is irregular; 'the Dispensing with the laws' is the proper question.

Mr. *Hawles.* We are not tied up to one head, to enquire of a Witness. The lord chief baron can give you no account of the Dispensing Power; he was turned out long before that came in question. It is proper to ask him any Question before you.

He was called in again.

The *Speaker.* The matter of the Petitions was objected against your lordship. The house would know who said it to you?

Lord Chief Baron *Atkins.* "I did drop that word to give you occasion for your question. Lord Clifford took occasion to tell me what favour the king had conferred upon me; 'that I had attended diligently in parliament, and was taken from my profession, therefore the king had thought fit to send me 500*l.*' I replied, 'I thank you; I will not accept any thing for my attendance in parliament.' Sir Stephen Fox asked me, 'why I would not send for my money? I have a good sum lies by me for you.' I did take occasion upon this, to advise my countrymen, 'that those who took Pensions were not fit to be sent up to parliament again;' and I never went farther in it than I have told you."

Mr. *Fox.** I find a reflection upon sir Stephen Fox. I would know what time this was?

Mr. *Smith.* I think there is no reflection upon sir Stephen. I remember there were members sent for sir Stephen Fox's Books, to know who had Pensions† He was so ingenuous as to tell you upon his memory who they were, and there is no need to send for him.

The *Speaker.* Mr. Justice Dolben, the house has sent for you to enquire why you was discharged so suddenly from your place in the King's-bench.

Mr. Justice *Dolben.* "It is now seven years since, and I cannot certainly tell; but I think it was for giving my Judgment for the king in the Quo Warranto, brought against the City of London. Several came to me, I know not from whom sent, or whether they came out of curiosity, to discourse with me, as I thought, about the Quo Warranto, &c. I must confess, one came to me (he was my friend) I think he said, Mr. Secretary Jenkinson was the occasion of his coming; he asked my opinion about it. He found me at my house at Hampstead, my Papers were before me considering the case. He told me, 'it was far from him to persuade me, but, whatever comes of it, to follow my conscience. If you are for the king, you must stay in. If not, you must be turned out.' I gave my opinion, and was discharged the next day. The docket was sealed on Friday, and I was discharged the Tuesday after."

Sir *Wm. Williams.* It is a common thing, not to come to a man to corrupt him plainly, but to bid him use a conscience. I am not afraid of the dead, but of the living; I am afraid of those alive. When that man is named, I shall know how near the king he was and what office and place he bore in the ministry.

Mr. *Garroway.* I would not have you go farther than what he declared to you, but you see plainly a practice upon them that would not do their business.

Sir *Robert Howard.* I am against asking him any more questions. I see we shall find none but dead men. I wish they would tell us no more stories of the dead: I see they must bear all.

The *Speaker.* Mr. Baron Neville, the house would know how you were placed in the Exchequer, and how you came to be discharged?

Mr. Baron *Neville.* "I shall acquaint you with what I think was the reason. I was sent for by king James to Whitehall the last Michaelmas term. I attended at Mr. Chiffins's chambers. After I stayed awhile, king James came to me for my Opinion in some points, in a Paper he had in his hand; it was about the Dispensing Power of the penal laws. I said, 'I doubted, his majesty could not dispense with those laws; but I could not give my opi-

* Son of sir Stephen Fox, and Paymaster General of the forces in the reigns of king Charles, king James, and queen Anne. In the reign of king William he was Vice-Treasurer, and Receiver General, and Paymaster of the Revenue in Ireland, and was likewise Treasurer to Catherine Queen Dowager. He died in 1713.

† See vol. iv. p. 1141.

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nion suddenly; upon reading the paper, I would consider farther.' A little while after, chancellor Jeffreys was sent by the king to know my opinion. I said, 'I gave the king my sudden thoughts, but I would farther consider of it.' A week after, when I had considered more of it, I waited again, &c. and gave my positive Opinion, 'that the king could not dispense, &c.' I sat quiet after this, for some time; and before the circuit I was sent for to the same place; where was Mr. Justice Streete. He was the senior Judge; he gave his opinion, and I mine. The chancellor made a long discourse, and disapproved our reasons, as the king had done. So I was dismissed, and my commission not sealed till two days before the circuit. I took my leave of the king, and had my direction after the usual manner. I went with Mr. Justice Holloway, where were the king, the chancellor, lords Sunderland, Rochester, and Godolphin. The king asked Opinions: Holloway gave the same opinion with me. The chancellor disapproved the opinion —I was dismissed again. Monday before the term, I was sent for to the chancellor's house, who told me, 'If I persisted in my opinion, I must expect to be discharged.' I said, I, must persist, for I had no reason to alter it, and would submit to the king's pleasure.' About seven or eight days after, I had my Quietus; and was told, that Mr. Harris brought it."

Mr. *Smith*. You have had a fair account from this gentleman. I would have one question asked him, 'Whether any body else was with the king the first time?'

Mr. *Howe*. I desire you would ask him, 'Who more were there the first time, and whether they concerned themselves in this matter?'

Mr. *Foley*. I desire that he and all the others may be asked, 'Whether the king did not ask him, whether he might grant out commissions of martial law, or raise money without parliament?'

The *Speaker*. Was any other question asked you than that of the Dispensing Power?

Mr. Baron *Neville*. "There were more questions asked, but all tending to the Test-Act. There was no signing at all of a Paper proffered me to sign, and I know not who drew it. I read it, and returned it. The first time I came, there was no body but the king himself. The second time there was the chancellor, &c. (as before.) If the lords then present said any thing, they discoursed with one another. The chancellor managed the whole thing."

The Speaker then addressed himself to Mr. Justice Powell, as before.

Mr. Justice *Powell*. "I was turned out suddenly. I know not perfectly, the reason, but I suppose it was about my Opinion of the Dispensing Power. Another, I suppose, was upon giving my Judgment about several Quo Warranto's, where the borough chose members of parliament by prescription; but I know not certainly. I remember not any person that discoursed with me. I was sent for to the king, (as before) I asked the messenger, who else was sent for? He told me 'several others of the King's-bench.' The king said, 'he hoped all the Judges would be of the same opinion.' (A Quo Warranto was brought especially against Marlborough.) I happened to be of a contrary opinion, and that I take to be the occasion of sending for me. There was lord chief justice Wright, Alibone, Holloway, and myself there. My opinion at the King's-bench was not pleasant. And, I guess, these were the reasons why I was removed. I cannot recollect any time I was sent to before. There were present chancellor Jeffreys, the Attorney-General Powis, the Solicitor-General Williams, and sir Samuel Astrey. I think no lord was present but Jeffreys. The late king spoke to induce the Opinion. The Chancellor enlarged upon it, and after he had commented upon it, some ordinary matters were discoursed. I remember nothing relating to the law. A quarter of a year before, I was sent for by the chancellor to take my Opinion, whether a borough, for a misdemeanor, did not forfeit their right of election of parliament-men? And whether such as had no residence in the borough, and were foreign burgesses, had right of election? The Chancellor would know the Judges Opinion. I delivered my opinion, 'That there was no such power in Westminster-hall to question any such thing. I thought that power was only in the honourable house of commons.' At which the king seemed satisfied. When I came home, I searched my books, and some authorities. Justice Lutwich was abroad then, but did seem to be of the same opinion, 'That it was not proper for Westminster-hall.' I conceived that the misdemeanors of corporations, &c. were pardoned by the Act of Indemnity. I cannot call to mind that I had discourse with any man, but the late chief justice, who asked me, what my Opinion was? I answered, 'When the matter came before me, I should give it on the bench.' The first news I heard of my discharge was from my lord chancellor, who (at his house) very kindly told me, 'he was sorry for it, but would not send my patent of revocation till the last day of the term.' And I sat out the whole term."

Mr. Justice *Gregory*. "I did continue baron of the exchequer till Michaelmas term, 1685. The king came with a Paper in his hand (as before,) &c. I gave my Opinion against the Dispensing Power."

Sir *Thomas Jones*. "I was removed for my Opinion of the Dispensing Power, &c."

Sir *Francis Pemberton*. "I was removed out of my place, without visible reason, the first time; neither do I know the reason of my being removed from the King's-bench to the Common Pleas. I was never sent for to Whitehall, nor to my lord chancellor's. I was willing to remove. The night before, my lord said nothing to me, but the next morning I had a Supersedeas."

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Mr. Serjeant *Montagu.* "I was removed for giving my Opinion against the Dispensing Power, &c." (as before.)

Mr. Serjeant *Levens.* "I thought my discharge was because I would not give Judgment upon the soldier who deserted his colours, and for being against the Dispensing Power."

Mr. Serjeant *Wythens.* "I suppose the reason of my discharge was for refusing to give sentence on the soldier," (as before.)

Mr. Serjeant *Holloway.* I suppose my removal to be because I did declare 'That the Bishops Petition was not a seditious libel;' and 'that the Dispensation was illegal.'—They then withdrew.

Sir *Tho. Littleton.* Having heard all this from the Judges, I desire we may not rise without some opinion of the whole of this strange dealing.

Mr. *Garroway.* That will not do your work. Jones told you, &c. 'he must give his Opinion; the king must have all the Judges of a mind.' When the whole thing is before you, then you will see who came in their places that were turned out, and make use of their evidence to punish the rest who were of another opinion.

Col. *Birch.* This will be odd to posterity, if it appear not upon your Books for what you sent for these persons. I would know who were of the Council at dissolving the Oxford Parliament (and who of the Cabinet, if possible), when Papers were to have been put into Protestant pockets, to have them knocked on the head. I would have them particularly examined, what they know of the Declaration that was pinned at our backs after the Oxford Parliament.

Sir *John Lowther.* What a multitude of persons will this of delivering up Charters involve the nation in! We have now a war with France, and king James is in Ireland. I wish you would forbear this, or adjourn it, till the house be in better temper. If the clerks of the Council give you imperfect answers, you will alarm those who are under the shelter of the government, when they expect an Indemnity. I therefore move you to adjourn the debate.—Adjourned.

Report of Mrs. Fitz-harris's Case.] June 15. Sir R. Nappier reported from the committee appointed to inspect the Case of Mrs. Fitzharris, "That the said Mrs. Fitzharris had a pension of 200*l.* per ann. for 15 years allowed her, on account of her father (who was commander of the York frigate), his being killed in the public service; that this pension was constantly paid her till the year 1681, when it was stopt because she would not persuade her husband to lay a Popish Plot on the Protestants; over and above which, she was threatened to be imprisoned on the same account. One John Lunn, likewise, affirmeth, that he was an instrument of conveying Mrs. Fitzharris away, and was therefore sent for to Windsor; where being brought before the late lord Conway, the said lord first threatened him, and then offered him, the said Lunn, 5000*l.* to deliver up the said Mrs. Fitzharris, which he refused. It further appeared on the evidence of one Mr. Harrington, that the said Mrs. Fitzharris was instrumental in delivering the earl of Shaftsbury, the earl of Bedford, and some other lords, and divers members of the house of commons (some of which have acknowledged the same), from a design of putting treasonable Papers in their pockets. That she advertised several persons of the villainous project against them, and was the only person (under God) which prevented its taking place; by persuading her husband to desist from the villainous attempt, though he had already received 200*l.* as an earnest of the late king (which said 200*l.* she remembers her husband brought home in a hand-basket), and though she lost the Pension which she hopes to be restored to, and that this honourable house will recommend her and her three children to the present king as objects of charity."—Which the house agreed to, and ordered her to be recommended accordingly.

Address of the Commons relating to the Irish Protestants.] The same day, the commons agreed to the Address relating to the Irish Protestants, which was as follows:

"We your majesty's most dutiful and loyal subjects, &c. having taken into our serious consideration, the many great sufferings of the Protestant nobility and gentry of Ireland, which their zeal for the Protestant Religion, your majesty's service, the interest of England in that kingdom, and love to our nation, have exposed them to, &c. being the only body of Protestants ruined by the late happy Revolution, which hath wrought so great a deliverance, &c. most heartily crave leave, in their behalf, to offer their deplorable condition to your majesty's most princely consideration.—And whereas, by reason of their numbers, they are very apprehensive of their being and continuing a burthen to this kingdom while they remain in such condition unemployed, and that many of them, for their interest in, and knowledge of that kingdom, as well as their experience, &c. in military affairs, being well-qualified to serve under your majesty for the reducing thereof, and all of them pressing and forward for that service, &c. 1. We humbly recommend such of the said nobility and gentry as are fit for military employments, as very proper persons for reducing that kingdom to its due obedience to the crown. 2. That such as are not fit for the field may be put into such civil employments, as they are most capable of. 3. That for their present subsistence, we humbly pray that the sum of 15,000*l.* may be forthwith distributed among them. And that for a further and standing Fund for their subsistence until Ireland shall be reduced, your maj. will be graciously pleased to issue forth your royal proclamation requiring all Papists beyond seas, who have estates in England, and all Protestants that are in arms, or otherwise engaged against your majesty, if any such there be, to return within a certain time; and that the estates of such

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as shall not give obedience thereunto, be seized into your majesty's hands for the relief of the said nobility and gentry, who are, or shall be deprived of their estates there.—And we the rather make this our humble supplication, to your majesties, because we esteem ourselves obliged to afford them present relief and to represent the speedy recovery of that kingdom, of great importance to this in all respects, as your majesties, and the nation's true interest.—And we do humbly beseech your majesties to take the duke of Ormond, and his great merits and sufferings into your particular and royal consideration, and that your majesties would be pleased also to consider of the rest of the nobility and gentry, already fled, and daily coming up from Ireland, that remain unprovided for.—And that your majesties favour and bounty to the said nobility and gentry may be distributed with the greater ease and advantage, we do humbly recommend to your majesties, that what you shall be graciously pleased to advance for their present supply, you will be pleased to order the same to be paid into the Chamber of London, or such other place as your majesties shall think convenient, with as much expedition as the urgency of your affairs will admit; to be thence paid out for them respectively, with as little charge and trouble of attendance as may be."

Further Debate on the Heads for the Bill of Indemnity.] Mr. *Ettrick.* The house seems inclinable for their convenience to go into the country. It has been proposed, for method, to go upon Heads, and to name persons obvious and notorious, on several heads. You have been told 'that it is necessary to go to the fountain and spring head.' In Ch. 2.'s time we were afraid of a Popish Successor; that was the spring; and lately we have had a Popish king. You have now a Protestant king, and I hope will destroy Popery and Rome. The prospect of the duke of York to be king put men upon a compliance with arbitrary government, and to close with Popery. That now ceases, and so I hope we need not go about to remove counsellors, pensioners, and officers. I thank God, there is no danger of the French king's influence; he has his hands full. Ireland and Scotland are not yet reduced. Under these considerations it is necessary that we unite all here, I hope, against the public enemy, the Papist; but I hear no talk of them, they wipe their mouths. But then, as Solomon says, 'it is wisdom to pass by an offence.' Persons that have made an atonement by their present services, I hope you will bury all in oblivion. The Chancellor was the tool of Popery. I hear no mention made of lord Sunderland, though it be treason to reconcile to the Romish Church*; and hearing nothing of Popery, I remind you of it only to look upon the great instrument of introducing Popery and arbitrary government.

Sir *Robert Cotton.* What does seem visible to us is the Judgment in the King's-bench in sir Edward Hales's Case. I would put the question upon these Judges. I think no way so proper.

Sir *John Lowther.* You are hardly ripe for that question yet; that Judgment has two parts; one was ecclesiastical, in the case of the Bishops; the other civil, in sir Edward's case. If you please, let all the Judges be named, and you will be ripe for that matter.

Mr. *Machell.* That is beginning at the wrong end: shall we let the Chancellor go off? pray begin with him.

Mr. *Hawles.* If a man were beyond sea, there is a proclamation to render himself by a day. 'Tis an irregular thing to say, that man that is dead should be excepted, when you may bring an attainder against him.

Serj. *Wogan.* You may exempt him, as you did persons in the former Act of Indemnity. He has a son and a lady left, and there are settlements upon them. For the man I cannot say any thing, but you may except him as formerly.

Mr. *Sacheverell.* I see some gentlemen in the house think nothing can be excepted, but what is at this time; but they may be in your Bill, and what exceptions else you please. I stand up, not out of respect to Jeffreys. Never let a minister of state leave to posterity what he has raised by his iniquity. It should be always to the use and benefit of the public, and his family be never the better for it; and when you come to the Indemnity, I shall move you to appropriate their estates to the public. He that will venture upon the life of his sovereign (which is the case)—If not, you will never discourage a man from being a rogue to his country. Let this, therefore, alone to the Bill of Attainder, and let it be forfeited to the public. I cannot let a man go away with an estate he has got with ruin to England.

Sir *W. Williams.* That was a wise law of Henry 8. to forfeit estates for treason: before that law, estates were not forfeitable. By the provision of that statute, the children were to lose their estate for the iniquity of their parents.

Mr. *Hawles.* Now we are in the right way. 'Tis reasonable to declare that those men that have got honour by doing ill may be degraded. I would have them refund what they have got by the Charters of Corporations. I believe, if you will go this way, you will do right to the public. Those whom they have despoiled ought first to be restored. I would go first upon persons living, for I believe they have done us most injury.

* See Appendix No. III. "The Earl of Sunderland made the step to Popery all of a sudden, without any previous instruction or conference. So that the change he made looked too like a man, who, having no religion, took up one, rather to serve a turn, than that he was truly changed from one religion to another." Burnet.

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Mr. *Howe.* If you go about to degrade those who have new honour, I know not how you will come by them: some have great estates and titles, and nobody knows why. And Bishops, nobody knows how they came to be so, or how they deserved it. Let us not, like Falstaff, fight with dead men: let us punish the living; the dead will stay for us.

Mr. *Harbord.* I have heard it said, that punishment is much better than laws, of which we have enough. Here are Papists now in town; they will not stir. 'Tis said by some, 'tis because of foreign alliances; but we must think of home dangers, else they will affront you to your face. As for the Judges, it is said eleven consented. For present example, confine them to a little number. The head Justice was hanged at Tyburn in Rd. 2.'s time.* I wonder not they are so ill men, for no others would serve them. I move that two of them may be hanged at Westminster-hall gate.

Mr. *Brewer.* I believe, it is not for the honour of the house to proceed upon the Judges. Have you any witnesses out of the King's-bench, or any thing under their hands, any Judgment in Westminster-hall? Common fame is a good interpreter, but no good judge. I would proceed upon the Judges who gave judgment in the Dispensing Power.

Serj. *Wogan.* I was with that Judge (Holloway) who is said to have come over to the Opinion of the rest, on the Dispensing Power. He declared against it, and was going to print his Vindication, and denied that he gave any such opinion. I have known him these 25 years. I dissuaded him from printing, &c. for it would be looked upon as a libel, and he and his family be undone. But he declared he would take the first opportunity to do it, and immediately he did at the Trial of the Bishops. I do not know that he was ever of that opinion, but there were ten of the Judges of that opinion.

Sir *Tho. Littleton.* I would be tender in reflecting upon any man, but that judge sat two years and a half under that imputation of Opinion. Powell delivered his opinion for him, and to this day he never acknowledged it. He will take the sacrament upon it, that he never gave his opinion for it; he hath solemnly declared that he had his Quietus upon it, and offers it still. Streete, who gave his Opinion, did declare that Holloway had wrong done him.

Mr. *Hawles.* When a judge of a court delivers an Opinion of a judge absent, the next time he sits, if he does not disown it, he confirms the report. It is an usual thing to deliver an absent judge's Opinion, but very improper. I have known when a judge has been misrepresented in his Judgment, he has denied it in court.

Sir *Wm. Williams.* Here was the case. The Opinion was delivered in the King's-Bench. Powell was not a judge of that court, but of the Common-Pleas. He had no opportunity then to contradict this, but did it at his first opportunity.

Sir *John Lowther.* I am very indifferent whether this be true or false, but what I look into is, who were most notorious, those who gave the Opinion in the King's-bench, and then sat in the ecclesiastical court, or those Bishops who sat—and all concerned in Magdalen College. You must exempt the most notorious out of the Indemnity, who persevered to the last.

Mr. *Ettrick.* Powell was not then a Justice of the King's-bench. The question is, whether he was there, and whether he gave any opinion?' They were at lord chief justice Herbert's chamber, and Powell said, 'It was a new thing, and he could not suddenly give his Judgment.' They would give judgment on Monday, and not upon surprize. Holloway resolved to vindicate himself in print, but as soon as he was removed into the King's-bench, and had an opportunity, he gave his Judgment; and Wright said, 'You always, brother, have been of that opinion.' Powell is a man of too much learning and honesty to be of that opinion.

Sir *Tho. Littleton.* I would know why, to this day, he would never say to his brother Holloway he had done him wrong.

Sir *Robert Howard.* I think we are not at all travelling towards the Indemnity. We are told hearsays of Powell and Holloway. Pray put the question upon those who gave the Opinion in sir Edw. Hales's Case. I cannot but be a little surprized when the use was for the king to dispense these laws, and by consequence all laws; and that in the case of the Bishops they should bind—I hope these extra-judiciary Opinions may be condemned. The fault was, saying what opinion they were of. If Holloway had been a judge for life, possibly he would not have been of that opinion. I hope this may be prevented for the future.

Mr. *Howe.* Which is the greater crime; they that went a fishing for a knave to do it, or the poor knave that did it? Was there no property in England till Magdalen College? Nor any liberty till the Bishops were sent to the Tower? It will be impossible to find them out. Rather adjourn the debate, or give a general Act of Oblivion to all, for the greatest part of England were criminal.

Mr. *Hawles.* I have heard that Judges patents were formerly, 'Quamdiu se bene gesserint,' and if you do not punish the 'Bene placito' men, you will confirm those of 'Quamdiu,' &c. to do as those before them. The last Grievance was that of Magdalen College, and those turned out, got by it. If I were to begin, I would at the first head; that is, the Oxford Parliament. We know that sir Edw. Hales's Case was a moot, a feigned case. Wright is dead, and Herbert fled; some were frighted, and some cared not what they did a rush; but the Attorney-General and Solicitor-General are men of estates; let us know who

* See vol. i. p. 209.

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was the attorney and solicitor-general then; let us know at that time who passed that patent, and then you have a criminal before you.

Sir *Joseph Tredenham.* When you will exercise your justice, I would not do it till the greatest criminals are named. You have been told of taking away Charters of Corporations: consider what a great number will be involved on that head, and how safe the government will be when so many are unsafe under it. The Regulators, which happened after the surrenders, that comes under that Head. When offences come to be general, there is no way but to cover them all by a general act of parliament; for these reasons, when you look into the Revolution, all sorts of persons have contributed to it; and people will rather upon severity cover past faults with greater, than be reformed.

Sir *John Lowther.* In conversation, through frailty, we both give and take offence. No man here but may have his revenges, and some upon me: I am willing to forgive, I desire to be forgiven by all the world. We have got the government settled: I would punish for the future, and pardon all that is past.

Mr. *Smith.* I should heartily concur to the motion, if it would give content to the people. If we name not some persons, we must allow their offences. I speak for the justice of the nation. Those who have got estates by our misfortunes, will get into the government, and you go about to qualify them for it. I must say, if you respect not the king's Declaration, nor the justice of the nation, I cannot agree.

Mr. *Hawles.* I never heard of a general Act of Indemnity. Will you except robberies, murders, and let these men run away? If you go about to please those who have offended, you will anger twenty more that are injured; though I am not for blood. Was not the attainder of Cornish illegal, by the express evidence of Rumsey, who was not there, when he swore he was? And the whole Trial of lord Russel was illegal, and as bad; and col. Sidney's as bad as that. I have had no injury done to me, nor any of my relations have suffered; but if you do not justice to them without doors, we shall not sit long here.

Mr. *Papillon.* I think you have read but one Head, and then, certainly, it is very improper to go upon a general Indemnity. I am not for revenge, but to vindicate the nation. We are to vindicate the Protestant religion. The Papists would turn all upon you, and you have an opportunity to vindicate England. The parliament has been abused, and papers pinned at our backs, upon a dissolution; and now we are told, 'you do nothing to vindicate yourselves by punishing some offenders.' When you come to particular persons, let every man do what he pleases, but I see men justify what they have done. The Popish Plot was laid aside, and laid on the Protestants. Pray vindicate the justice of the nation.

Sir *Robt. Cotton.* If crimes have been epidemical, and you cannot distinguish men, it may be of ill consequence. Those who acted in Westminster-Hall, were set on by greater persons, and those are fitter for our justice. Mercy becomes this house, and I never knew but persons must be eminently distinguished, and you will find some have their crimes alleviated, and so all are equally criminal; but if you cannot distinguish, and it is so general and epidemical, let us be impartial, and pardon all.

Mr. *Boscawen.* If you do not condemn others, you condemn yourselves, and take all upon yourselves. I have met with an act of the Irish parliament, on the other side the water, that has attainted many. You ought to be careful, now the present government is called in question. If you pardon before and after, what will the world say? The Papists will be confirmed in all they have done. If you make a general sweep-stakes, you make all the world believe you are wrong.

Sir *Robt. Howard.* I have seen great revolutions (at least seemingly) in opinion, in this house. In your Vote some persons were to be excepted by name. I see some are inclined to a general Indemnity, and this is one revolution of opinion that has been here. As the nature of the thing stands, when I had seen an Act of Indemnity, I did suppose that the Ecclesiastical Commissioners, and those concerned in Charters, would have been named. If you would not have thought them crimes, you would sure have put a clause of indemnity for yourselves, and you were punishable, if you had not thought that you had not done very well. When you have enumerated all offences, to excuse yourselves, you must have excused yourselves.—And let all the world see they are not so great as you have believed them—I am sure our judgments are shaken, and pray God send nothing else be shaken, amongst the people! They may say, the good house of commons have seen something too great, something too deep for them. Had this been said at first, it might have gone some way with me; but now you have gone thus far, and on the sudden changed your minds. You have excepted a lord that changed his religion (Sunderland,) and went an Embassy to Rome (Castlemain) and all that Jeffreys has done. The time of the day wastes, and, it seems, our thoughts waste, therefore I would adjourn the debate.

Sir *Christ. Musgrave.* I think, by the Vote you have made, it does not hinder a general Indemnity. I think it for your service to pass that Act, as great a satisfaction as any thing that has been done since the settling the crown. I would rather err in mercy than on the other hand.

Mr. *Sacheverell.* For my part, I wonder at this debate, and more at Musgrave to put it so largely. I am as much inclinable to mercy as any body; but as for the Judges that have so violated your laws, what will that come to in time to come? What sit you here for? I cannot sit patiently at this. I am for equal justice to all; but he that gives his opinion

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that the laws may be suspended, I give my opinion against him. Are we to pass by all these, to be established in corporations, and capacitating these Judges to do the same thing again, the same crimes? The king has given his sanction. He is inclined to mercy; but for Fines, I would never forgive them; I would not except one Judge, but as they have offended singly, as they merit, one by one. When the law has been perverted, and religion violated, I would never forgive them.

Sir *Henry Goodrick.* I am unfortunate that it is my right to speak, and I cannot obtain your eye. I stand up only for the service of the house. When I considered the motion, the charity, the safety, when I considered the authority of so considerable a person as Lowther, so far from the intention of the inferences made, I ought to suspect no person, much less that honourable person. It was far from his intention to invade any thing by interfering. For these crimes I wish examples were made, and am so far from palliating them, that I would stamp a mark of your indignation upon those who advised king James. I confess, I am for a general Pardon; it has a charm in it to me. All England hopes for it, or else farewell all safety of liberty or religion! I do intend nothing to be pardoned of crimes since you sat. There spoke of an ambassador sent to Rome by king James; could Lowther, or I, be thought to justify that, or to pardon the Popish party, who have been the first spring and motion of all this? The Jesuits set on the Papists, and I will go farther in this than your Heads. I am still for a general Pardon, but still for Protestants only. I go not about to pardon, nor justify, the Chancellor, who was worse than a Papist, that professed himself a Protestant. I beg persons may be excepted, but very few; the king has recommended it to you; follow his steps, in his wisdom and charity. There is not a spirit of revenge in Protestants, like Papists. I move you for an Indemnity, with all ordinary limitations and extraordinary limitations—Papists excepted.

Mr. *Hampden, jun.* I suppose this place gives liberty of speech; it is the honour of the house, and the liberty of the nation. Will you lay aside all these Heads at once, and sit all this while, and say that nothing shall be done upon them? Is not this to seem light and unadvised? I have expressed my tenderness; I have suffered, yet I can forget and forgive as much as may be, for the safety of the nation. Blood no mortal man can forgive; nobody but God can forgive; you only leave a latitude to judge whether it is wilful. I will wash my hands of the innocent blood that has been shed in the nation. We take off Attainders from those that suffered by these ill men: were they guilty or innocent? If guilty, you have done ill to pass it; if innocent, you cannot pass it by. If the nation will take that blood upon them—If I forgive this, God will not forgive me. The whole nation was of opinion, that the not punishing the baseness of Ship-Money was the occasion of the great mischiefs that followed.

Mr. *Hawles.* The first question was, Whether you will name persons, and now I hear of a general Indemnity. When others break your laws, they may hope for indemnity for what they shall do for the future. I am not concerned with friendship, or anger, of any man, but I am not for 'crudelis clementia.' Charles 1. had as learned lawyers as ever sat, and yet they did as irregular things. For the Ship-Money, had those Judges been punished, they durst not now have done it. The Case of Magdalen College is but a trifle to what they have done in other things.

Sir *John Lowther.* I hope nobody thinks I would excuse shedding innocent blood; but I believe there is a sort of skill that, when a thing is not liked, it may be easily clogged with what was not intended. I would have the Exceptions read, and because iniquity grows with times and ages, I would have some added.

Sir *Henry Capel.* I do not think that Lowther has any intention to countenance blood, or the destruction of government; but a general Act of Indemnity surprizes me; and yet some persons should be under Exceptions. For two or three reigns have we not had warning that the government would be destroyed in Westminster-hall? We have had learned judges and ignorant, and yet all have conspired our ruin. Punishment is hard, and I am tender, yet if the government requires it, it is incumbent upon us. The government is executive in the king, when we are gone; he is a good king, yet we may have one with corrupt Judges. Westminster-hall has been the undoing of us all, and those two things must rest upon them. We are told, 'the Jesuits have infused mischievous designs into the Papists; but it has been our misfortune, that Protestants have joined hand in hand against us. Upon the whole, I would not adjourn the debate; it is against the honour of the house to do nothing before you rise. I would name them all four.

Sir *Rd. Temple.* The question this morning was about these four Judges, but the Exception was but to two of them. If I can be instrumental to serve the house, I would willingly. You say in your Vote, 'that some may be excepted from pardon,' but if you previously resolve how many for life, or other exception, this is your only method, to what degree for lives, or other disabilities of bearing office; propose some Resolution to limit this, so as not to give too much latitude, nor too great alarm.

Sir *Tho. Lee.* You began with two of the Judges, and then you came to all; at last, to an universal proposition; but I suppose it was intended to all common crimes, as rapes, &c. usually excepted. But as to the universal offence of subverting the government, the consequence is, number enough is security enough. All these Judges will become practisers, and

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their party will be their clients, and so get more money than they did before. I have heard of Persons, who for being of the king's Counsel have lost money by it. It would be a pretty sight for the bishop of Durham [lord Crewe] to come to his diocese. When you have named a person, the law tells you his punishment. Here lies the difficulty with me, a necesssity that so many offenders should be at ease, and not necessary that a great many should be punished, though necessary that some should. If limited to four or five, say those are the persons fit to be marked and punished. If it be a general Indemnity, with few to be excepted, it is the happiest question that ever was put.

Sir *John Lowther*. It has been moved with great caution. If you please to nominate a small number to be excepted, it is a prudent, good, and honest motion.

Sir *Robert Howard*. Of all the questions I have heard to-day, this last proposed is the strongest. It is impossible to lump this at a venture. So many for blood; how if you take too many! If you judge a man for estate, you are bound up, and I find you would not involve it. The most indeterminable thing in the world! Judge the man, and proportion his crimes. I do not speak to chill the charity of any body. The proper question is, Whether you will proceed upon the Judges of the King's-bench? King James has abdicated the crown, and if we lump them in, who have helped to lump him out, you say king William has done all the wrong, and they none.

Sir *Ch. Raleigh*. If this must pass off so, for God's sake let us send for king James again.

Exception was taken at Raleigh's words.

Sir *John Lowther*. I cannot see how any such imputation can be upon what he has said.

Sir *Tho. Lee*. You are right in order of explaining. I would not have words written down; it is a great injury to the gentleman if written down. I hope the gentleman will so explain himself, that it needs not.

Sir *Ch. Raleigh*. What I spoke was ironical only, if we proceed to punish the lesser, and let the greater pass.

Sir *Robert Rich*. I never apprehended the gentleman willing to bring in king James; but to pass by all bloodshed and violation of our laws, is the way to bring in king James.

Sir *Walter Yonge*. If you are sure there has been no innocent blood shed, I would not concern myself. This may perhaps fall upon few, whether five or seven, I care not how few, but blood has been spilt. I move for a general question for life; for some have been concerned out of the King's-bench as well as there.

Sir *John Thompson*. I would ask one question, Is any man guilty of blood? And will you exempt them? Will you think it honourable to stand upon your Book, that you except any man for blood; but let that take the last place?

Sir *Robert Rich*. I bear malice to no man, none of these offended me. The crime of dispensing with the law is great. Nothing washes away blood but blood; but when you have restored blood, I would have them excepted, as for life; the rest not excepted for life.

Mr. *Ettrick*. I see not that, by any law, you can take away a man's life; for blood, and for murder, you will except that, but else I cannot give my consent to take away life.

Sir *Tho. Lee*. I would have the long robe declare, Whether these offences extend to any man's life. Therefore I lay the consideration when the person you would except—If at the king's suit, he is answerable, the king may prosecute him, and he has not the Act of Indemnity to plead for him—If the crime is not so, you need not put in that word of 'Exception for Life.'

Sir *Wm. Williams*. There were Judges who did act, by virtue of that dispensation, as judges. For those to sit and try men for their lives, that were not judges, I should make no difficulty in them. Wright and Alibone are dead. It is a case worthy consideration, when a man has no power, and ceases to be a Judge. Let that be your rule, as to this Exception.

Mr. *Hampden*, sen. I speak to your question, not the debate. I am sorry the question is brought to this. I am not of opinion only to leave them out of the Indemnity, and as to Westminster-Hall, if they have art and cunning enough, they may escape. This is a crime the law does not suppose, and if you cannot use the legislative power to punish such offences, it is strange. Is it not treason to subvert the government as well as to clip a shilling? What government are we under? The law is on their side then, and there is no remedy for these offences; he must say Amen to what he is bidden to say is law: if you say, so many shall be excepted out of the Act, and reserve yourselves for penalties afterwards, I agree.

Sir *Henry Capel*. I think, what is said is of the last consequence. The statute 25 Edw. 3. names Treasons for Westminster-Hall to judge, and, at the same time, there is a declaratory clause for the parliament, in doubtful cases, to judge treason. Are there not offences that no denomination can be given to? To subvert the government, and subvert parliaments, by taking away the Charters of Corporations, is certainly the greatest of treasons. I take it for granted, that such offenders cannot be tried by the laws, as they stand, and must they not be punished? I hope that sort of doctrine will not be here. Such treasons are to be punished by parliament. I hope we shall never depart from that doctrine. I will not.

Major *Wildman*. I had not been called up now, if this doctrine did not only pardon what is past, but endanger the government for the future. It is of dangerous consequence, when we took up arms, and we were involved in

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blood—In an universal Act of Oblivion, we confess, that we were the offenders, and needed it. This new doctrine, of having these offenders to Westminster-Hall, is as much as to say, they shall not be punished. These offences cannot be punished unless the parliament punish them. It was the custom of our ancestors to bind the Judges to the letter of the law, and to declare nothing treason, but what is specified, &c. and in a doubt to go to parliament. Our ancestors thought, by that statute, that there were treasons which could not be specified; therefore left it to Parliament to do it. When the ten Judges, and the king's Counsel, answered the questions at Nottingham Castle, proposed them by Rd. 2. had they done any offences against the statute 25 Edw. 3? Nine of them said, they were under fear of their lives—But in the midst of that mercy, they were banished, and a law made that fear must never be the case. I move that these men may be reserved to such penalties as shall be declared in parliament. I am so tender of blood, that I have said nothing to-day to wish any body's finger to be cut; but we are like to be in blood to defend what is begun, it may be with a sea of blood; therefore, those that have been the occasion of all this blood I would have such justice upon, as may procure our safety hereafter.

Sir *Tho. Littleton.* I am as much against a general Act of Indemnity, as against excepting all. Suppose you declare them in as hard words as you please—but I would do it to reconcile the nation. Make them support the government by setting all mankind at ease, (some must be excepted) and that will do your business.

Sir *John Lowther.* I am not for a separate question, but for complicating altogether. If you divide the incapacity, there is a legal incapacity that will involve a great many. I am for setting all at ease but Papists.

Mr. *Howe.* As for excepting all in a lump, I am against it. Many are fit for fines that are not fit to die, nor fit to bear offices.

Resolved, 1. "That no person shall be excepted out of the Bill of Indemnity, as for life, upon this head. 2. That some persons shall be excepted, &c. as to other pains and penalties, not extending to life."

June 17. The debate was resumed.

Mr. *Garroway.* You say in your Vote, 'some persons shall be excepted.' If nobody else will name a person, I will name one who sat in Magdalen College Commission. It is Jenner.

Mr. *Brewer.* He was not one of the Judges of the King's-bench, and I see not how he can be under this Head of the 'Dispensing Power.' He was a baron of the exchequer.

Mr. *Hawles.* Perhaps he gave his Opinion for it, and I believe it, but it appears not to us; though possibly he may be on some other Head. I have examined, and I know of none, and can find none. There were some fines set, and you enquired of sir Samuel Astrey, and he informed you, that a grand jury was discharged—And you have not then any evidence. Whoever made that patent is as much criminal as any body, whether the Attorney or Solicitor General.

Sir *Henry Capel.* Two things you are to know. One, who gave the Opinion in the Dispensing Power, in sir Edw. Hales's Case. You were well moved to have the patent produced, and then it may appear whether Jenner was one of them.

Sir *John Guise.* It may happen, they may tell you upon what ground those Patents of Dispensation were drawn.

Sir *Wm. Williams.* No Judge is to give his Opinion extrajudicially. There is no such patent in nature; but there is a commission with *Non obstante*, and there were several commissions granted out with *Non obstantes.*

Sir *John Guise.* There was, I mean, a Patent of Dispensation for sir Ed. Hales, under the Attorney's or Solicitor's hands; they went upon their own heads, and drew it; and it was pleaded in his case.

The *Speaker.* I saw a patent of Dispensation for most of the principal Papists about town.

Mr. *Hawles.* The docket of the patent will discover from whence it came.

Sir *Robert Sawyer.* There was such a patent, and it passed my hand, and I will give a true account of it. The first warrant came to me the 21st of Nov. that did include both the Pardon and the Dispensation for the future. I said, 'I could not pass it.' I told Mr. Burton, 'that the Dispensation would spoil the pardon.' I will show you the whole: I have almost worn out the papers in my pocket. After I had told him my Judgment, he brought me a warrant for a Pardon of what belonged to the king. On Dec. 31st, they brought this patent in question. I told them then, 'I could not pass it;' and I told the king, 'that in point of law, the power was not in the king.' The king referred me to my lord chancellor and lord Sunderland; they told me, 'I was but a ministerial officer, and might do it.' I did not conceive the king had that power, and I could not do it. The king desired my reasons under my hand. I consulted an honourable person, Mr. Finch, and then gave it under my hand. The king said, 'He had a respect for me; but will you agree to it, if it be the Opinion of the rest of the Judges?' I said, 'I was but a ministerial officer; but if it was the Opinion of the Judges, I must obey.' I heard nothing farther till three weeks after; when the king sent for me again; where were present the Chancellor and Chief Justice. The king said, 'I am advised by the Judges that I have that power;' and then it was brought, and I, as a ministerial officer, did pass it. Soon after, six of the Judges were turned out. Then they brought Walker's patent. I had the greatest veneration for the Judges not concurring. If they come to be of that opinion for fear or expectation of preferment, the nation can never

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be safe. I begged, on my knees, that the king would put me out of my place. I desired to know, why I was not turned out? I was told, 'because the king would not gratify another to come in my place.' Then I was brought the duke of Berwick's patent of lieutenant and Custos of the forest. I told them, 'I would not pass it with a Non obstante.' I was sent to by the Chancellor 'that the king would remove me.' Nobody then about the king, but knows I stood stiff upon it. I was Attorney in all these transactions, and you will find my integrity the greater, that I could hold it in those times. I knew, all things were set up to introduce Popery. I gave my opinion, 'that the Lease of the Excise, on the death of king Ch. 2, was a void lease,' though there was an overbalance of Judgment that the lease was good. There was another project of Brent's to set a new valuation of First-Fruits; they were then undermining the whole clergy of England. The commissioners of the treasury were glad there was an obstacle put to it. I will show you all my papers that I have to justify me. I never had a Pardon, nor ever desired it.

Mr. *Hawles.* Upon what has been opened by Sawyer, I think him the greatest criminal upon this head. This gentleman was not satisfied that this patent was legal; why did he give it out then? I am sorry to say, that a certain learned member had a hand in passing these patents, (there were many patents passed to persons that did incur the 500*l.* penalty) and was earnest for the 500*l.* men.

Sir *Robert Sawyer.* Mine was but a private Opinion, not a judicial opinion. The Judges are the king's counsel, and they are advised with; but the great hurt is when Judges are corrupted in opinion. I submit whether any officer must not do as I did.

Mr. *Howe.* Sawyer has endeavoured to vindicate himself. I am not a judge of the law, but when he comes to vindicate himself, then is the time to speak to that. That horse which carries the first stage, and that which carries the last, are all post-horses alike. It may be, some would be content to be hanged to leave 1000*l.* a year to their families. I hope these Judges and others, &c. may be reduced to their former estates that they had, before these crimes were committed. They would be willing to sit down with 2 or 300*l.* a year, and laugh at us. I would move something, to know the names of the persons you would enquire into for acting and promoting this. I will give my opinion as freely as any body, to provide for the future against the infamy of such persons to be in office, who have very lately been in arms against us.

Mr. *Hawles.* The way to know is from the officers of the court in the Case of Goodwyn and Hales. Let us not give occasion to think we do injustice, but inform ourselves.

Mr. *Boscawen.* I would know what oaths the Judges and great officers of the law take. If their oaths, and the fear of breaking them, will not keep them to their duty, you may proceed farther.

Sir *Tho. Lee.* If I thought you would not proceed without proof, then there must be a committee to enquire. I suppose, when you come to apply punishments, you will hear every man what he has to say in his own defence. One tells you, 'he knows not who was there;' another, 'he knows not how Opinions were given.' It is apparent that the Judges gave no Opinions; but their practice gave the example, and it was an opinion that put on the Chimney-money upon the paupers, which Sawyer gave. Archer and others, who had their patents 'Quamdiu,' &c. though they retained the ordinary fees of court, yet not their salary of 1000*l.* per ann. If the matter be apparent, then you may proceed, and not lose time.

Col. *Austen.* If the justice of the house can go no farther, it is in vain to proceed. If you will not come to a justification of what you have done, let us go home.

Sir *Wm. Strickland.* Those who were the great darlings of king James, not to turn them out! Those are the persons to be excepted. I mean Sawyer.

Mr. *Harbord.* What is the reason for taking away chimney-money? Was it not, because it was barbarously collected against law? The king's counsel gave their opinion, to shelter the privy counsellors, that ovens and cottages should all pay. These have grown up by the advice of Sawyer; and if you fall not upon them that did this, you are defective in justice. I would always have it a maxim here, 'that to levy money against law is treason.' If privately, cunningly, and traiterously they give an opinion in law, those you must lay hands on. I am tender of blood, and cannot give my consent where no blood has been shed. The blood I mean is that of sir Thomas Armstrong, a most barbarous thing! And all foreign nations where I have been cry out upon you, and say, there is no living amongst you. I would except them even for their lives.

Sir *Robt. Howard.* This is not your business now, but what you will do on the Judgment given in Hales's case. Sawyer has told you, why he did do it, and has papers in his pocket. He tells you, 'He had the opinion of the Judges, but the king and my lord chancellor told him so.' All must be seen before you, and perhaps you may make these things clear; and let sir S. Astrey and Henley bring you the Judges names. But this now looks a little short, that Sawyer did this upon hearsay; but I would not condemn him upon hearsay; send for Astrey and Henley, and adjourn it to-morrow.

Sir *Wm. Williams.* It is true that this extra-judicial Opinion was given, but how shall the house be satisfied? I was present in court when Judgment was pronounced. It was by lord chief justice Herbert. He had consulted all the Judges, and there was but one dissenter: on that Opinion, judgment was given. But that they should be quiet under that law,

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and not be contradicted, is strange to me, who gave and persisted in this Opinion. But whether you will refer it to a committee, or send for the officers, I submit.

Sir *Robert Sawyer.* I will bring my papers to-morrow, and you may have all the matter before you.

Sir *John Lowther.* I think it not possible to come to a Resolution of this question, till you have the state of this Head before you. The words of the Head are, 'advising and acting in pursuance of the Dispensing Power, &c.' So you must make no distinctions; they are all equal crimes, and when you come to the Case of Hales, you will not think that so great as the lord-lieutenant's, who came down to urge persons to declare for the taking away the penal laws, and the Test, and to act without it. This is levying war openly. The Judges, who have given their opinion in Westminster-Hall, I cannot think more criminal than those that contrived it. I presume, the wisdom of the house will weigh the 'advising and asserting' it. I presume, you will find 'acting' one of the least crimes. Consider the quality and greatness of these men; you will not lay the load upon some men only, and let those equally concerned escape.

Mr. *Garroway.* I rise up to second the motion, 'That serjeant Streete and justice Powell may be here to-morrow.'

Mr. *Ettrick.* When you sent for the Judges last, you sent some of your members to attend them. Powell is a sitting Judge in the lords house, and I think it fit you do it to him.

Resolved, 'That Mr. Justice Powell, sir Tho. Streete, and the Prothonotary, Secondary, and Remembrancer, be sent for."

Address to the King to secure the Garrisons, &c.] June 18. The following Address from the Lords to the King was sent down to the Commons for their concurrence:

"We your majesty's most loyal and dutiful subjects, the lords spiritual and temporal, and commons, assembled in parliament, having taken into our consideration the great importance the Isles of Wight, Guernsey, and Jersey are to your majesty's dominions, and the great danger to which they are exposed during this war with France, do, in most humble manner, represent to your majesty, That we are informed, that that Isle of Wight may be put into a good posture of defence in a small time and with a small charge: and we do humbly desire your majesty would be pleased to send, with all expedition, a supply of troops, provisions and stores, to all these places, and particularly to order some men of war to Guernsey and Jersey, that may constantly attend there for the better defence of these Islands; and likewise to give such further orders for the security of the Isles of Man, Scilly, Anglesey, and of the Cinque Ports, Milford, Pendennis, and Falmouth, and all other places that lye opposite to France and Ireland, as your majesty in your princely wisdom shall think fit.—And we further desire your majesty to give effectual order, that the Act for confining Papists within 5 miles of their own houses, and the law lately made for disarming Papists and reputed Papists, and for taking away their horses, may be forthwith executed; and, in order thereunto, that the Judges may be directed to give these Acts in charge to the justices of the peace in their several circuits; and particularly that they examine whether any Protestants have, contrary to that Act, owned such horses as in truth belong to Papists.—We humbly lay these things before your majesty, as conceiving them to be of great importance to the safety of your majesty's person and government and dominions."

Debate thereon.] Mr. *Garroway.* This Address is as if the king were in Holland, and Stadtholder, to teach him his duty, and not king of England. I am against it.

Sir *Joseph Tredenham.* If this Address be publishing our weak condition, I am against it. It is certain, these places are in no good condition, and since it is not mended, it is our duty to represent it to the king, and we cannot else do right to our country; especially this coming from the lords, makes me for it.

Sir *Henry Goodrick.* Guernsey is in ill condition, though the best harbour in the world. It lies opposite to France. There are no guns, nor ammunition. The consequence of the place is great. As for the Isle of Wight, it is a place of infinite consequence, and so ill-fortified, that the governor, sir Robert Holmes, at his own charge, has done something. Yarmouth and the Castles are much out of order. I hope it may for the present be done without much charge. I would concur with the lords.

Sir *Tho. Lee.* I find we are now upon the debate of Address to the king about the Isle of Wight, &c. and therefore it is not fit to pass at the table in a moment. I could have wished the king had sent to you before, or you to him. I hear of garrisons making, and we may draw more garrisons upon ourselves, and at another time it might be suspected. For Jersey you may do something, and I am sorry to hear from Goodrick, 'that Guernsey cannot be kept.' The lords, I believe, have had informations before them, and I would have you do so too, and consider as they have done.

Sir *Christ. Musgrave.* I take this Address to be of great weight. This has been examined by a committee of lords, and it is not usual for us to take things upon trust. Inform yourselves, as the lords have done, and then, upon committing it, you may take the same steps, that the lords have done, and then you are ripe for judgment.

Sir *Hen. Goodrick.* The Fleet is now drawing towards Brest. I see no manner of summer guards, and we have nothing to send men into these islands. I suppose they may land men out of France with flat-bottomed boats; have we any frigates to hinder a descent from France? Unless we send out some ships presently, we may run an irreparable hazard.

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This is the purport of the Address from the lords, and I hope it may be effectual.

Mr. *Harbord*. I am willing to commit this Address. The lords have had this before them three or four days, and I would go the most decent way to the king: I would examine the thing and the charge of it; it will cost the king money; therefore, upon the whole matter, I would commit it.

Sir *John Thompson*. It seems, the king has not been put in mind of this by his counsellors, and therefore we must do it; but I will not see it with other men's eyes, when I can see with my own. I question whether this Address will not bring on the consideration of Money; and since this is for our defence, I would have the committee take some care of the Navy, and see what present state the navy is in.

Sir *Tho. Clarges*. This motion of Garroway's, of computing the Charge, is letting the lords in to raising Money. I do not know but the Commissioners of the Admiralty and Ordnance have done their duty; but this is too great a presumption that they have not. We have given two millions already, besides the Revenue. I would have the Commissioners of the Admiralty and Ordnance give you an account of their proceedings.

Sir *Henry Goodrick*. The Office of Ordnance has not wanted application to the Treasury for Money, which it wants. The duke of Schomberg has made application. Nor has Wharton, the engineer, been wanting; he has viewed all these places, and has orders to make them in as good defence as possible.

Sir *Thomas Lee*. You may enquire as much as you please into these things; but I think Clarges has minded you well of letting the lords in to giving money, though I know not how he can make out "two Millions" given. I think it for your service to enquire if it will cost you money by an Aid, and you may see if the revenue can pay it, and not do it without that, lest you let the lords into giving money.

Mr. *Howe*. To address the king to do what he has done already is a reflection. As for the islands, I hope they may be speedily done; and for Londonderry, I would see what forwardness we are in for Ireland, and would know how many Dutch ships are to join us; and if, upon enquiry, you find the Dutch ships out, and Ireland in good condition, there will be no occasion for this address.

Mr. *Boscawen*. An engineer was sent to Jersey, and Guernsey, and Scilly, to compute the charge. I desire you to take notice, that, before you make this address, you should inform yourselves what care has been taken. I have this morning spoken to duke Schomberg about it.

Mr. *Ellwell*. Are we only to fight and have no trade? To be neglected, and no convoys for merchants? They make fortifications in France, and shall we have no fear of invasion? There is no Militia, and Pendennis-Castle is in ill condition, and lies open to the French and Irish too. I would have particular instructions to the committee to enquire into the Navy.

Col. *Birch*. This address comes in a most unusual way, but when any thing is before you, I would know the bottom of it. I would have the Committee examine what is done, and what is not done. One part of the Address relates to shipping; our safety is, in the first place, to be looked for. I desire, a paper may be laid before us of the number of ships in the whole kingdom, how many fit, and not fit, and where they lie. Some talk of 30, 40, and 50—('tis none of my trade) I would know what you have for reserves, with the several particulars of guns and burdens.

Serjeant *Maynard*. I would have the Committee enquire into the captains of the navy. I hear there are young men put into ships, that never were at sea before. The question was formerly, 'Was he a godly man?' And he was put in. I asked then, 'Whether a godly man could make a watch, or a pair of boots?'

Sir *Tho. Lee*. If being of a party makes men fit, I have heard that young men are fittest to fight. Those that know and have fought, are thought the fittest to judge. Lord Torrington * is fitter to recommend a captain than I am, that live in Buckinghamshire. The charge is computed at 100,000*l*. a month, the Estimate, and when I have said that, it will not bear the Charge of this summer's expedition, (and gives an account of the Shipping) but do what you can, there will be leakages. As many ships as are appointed, are nearly ready to a ship. The king has ordered 20 to cruise betwixt Scotland and Ireland. Those who are experienced were thought best to recommend officers; and to my observation, those who were never in the king's service are not so forward with their ships as those who were in the king's service before.

Col. *Tipping*. I was lately at Portsmouth, where I saw one of the greatest ships given in upon account fitted, and weeds grew on her sides, three times as long as the table; which, lord Torrington said, must have been, at least, three years laid up.

The Address was ordered to be committed.

Mr. Justice Powell and others examined touching the Dispensing Power.] This day Mr. Justice Powell attended, according to order, and being called in,

The *Speaker* said, The house has sent for you to desire you to inform them, whether the Judges were sent to, to meet together in sir Edward Hales's Case?

Mr. Justice *Powell*. "The Judges were sent to, to meet my lord chancellor at Serjeant's Inn, in Fleet-street; all the twelve Judges were present, and there it was proposed, Whether the king could dispense, &c. in sir Edw. Hales's Case? I beg the favour to be excused from making answer as to persons. It is im-

* Admiral Herbert, so created a little before this debate.

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proper for me to accuse any. I humbly beg the favour that I may be exempted." And withdrew.

Col. *Birch.* It seems, he is tender in revealing what passed, on private considerations; but what was done upon that occasion was on a public account. I conceive it not the intention of the house that this gentleman give evidence; but I think it necessary that you know what Opinion was given, because you were told that 11 Judges were of that opinion.

Mr. *Leveson Gower.* I am of opinion, that no imputation can lie upon him to tell you the opinion they gave; but I would not ask him what opinion he was of; but how many signed their Opinion at that time.

Sir *Tho. Littleton.* If you go through with this question, he may live uneasy in his Judge's place. I doubt not, Powell gave his Opinion for it, and Streete was the only man against it. I think he has given a very particular account to the lords, and it is fit he should do it to you likewise.

Mr. *Garroway.* I wonder what you sent to this Judge for. Now he comes, he makes you a great compliment, whether you will ask him the question, or not? If the crime be such as that all is at stake upon it: ask him plainly, what Opinion these Judges gave, but not himself. I hear he has frankly and freely given an account in the Lords' house.

Sir *Henry Capel.* Was this Judge in any public court on oath, he ought to tell what he knows. For once, let us not part with our laws, without some struggle for it. I stand amazed that Powell is tender in it here. He is not to be excused for his modesty, though a good thing. When that compliment and excuse is over, for the good of the nation, he ought to give you a clear account. I hope, you will tell him that this house requires it of him to inform you, and I believe he will obey you.

The *Speaker.* Mr. Justice Powell, the house has considered your answer, and have commanded me to acquaint you, that for what concerns yourself they will not question you nor require an answer; but for what you please of the other Judges, there can be no tye of secrecy; you are under a duty to tell your knowledge. This is not properly an accusation of the Judges, but your testimony is required to deliver your knowledge.

Mr. Justice *Powell.* "I am very free to declare any thing relating to myself, but to others, unless you command me, I desire your excuse. 'Tis at a great distance, a great while since, but I shall declare what I remember. I am unwilling to incur the displeasure of this honourable house. Going on Wednesday or Thursday in Trinity Term [2 James 2.] to dine at Serjeants Inn in Chancery-lane, I was desired to attend at the other Serjeants Inn, in Fleet-street, at four o'clock; where being met, my lord chief justice Herbert told us what the business was. He desired my Opinion, with the rest of the Judges, in sir Edward Hales's Case. He cited some Cases to make out the king's Dispensing Power. He cited Coke's 12th Report. After he had done, it was my turn, as puisne judge, to speak. I answered, 'the Case was of great importance, and, for the present, I was not able to do it, till I had consulted Books against Michaelmas Term.' He said, 'he would have it on Tuesday.' I said, 'The time was short, but I would wait on him.' Milton, who was then baron, gave his Opinion, 'That he might dispense.' The next was Lutwich, who said, 'He restrained it to this Case, and thought the king could dispense in this Case, but not in ecclesiastical cases. He restrained it to that Case before us not relating to Religion.' Jenner was next, who said, 'The king might dispense.' Wright was for dispensing. Holloway, I believe, was for dispensing; I cannot say it positively; I was at a distance. Streete was against it. Lord chief baron Atkins was at a greater distance; I could not well understand him; he cited several Cases. Lord chief justice Bedingfield's Opinion was, 'That the king could dispense.' This is all I can say in the matter transacted so long ago. Nothing was put in writing, nor notes taken of what was then spoken. As for what concerns myself, I attended my lord chief justice, at his chamber. I called on Mr. Justice Lutwich, who went with me, and there I heard first of the Judgment given on the Monday morning. 'Twas given on Monday, because there was a grand jury of persons of quality that day, and it was thought the next would not have had such an audience, and therefore they hasted giving Judgment that day; so I did not deliver my Opinion. I beg pardon, it was my forgetfulness not to name Wythens and Heath—[Upon the Speaker's asking of them, &c.] They were with the majority for the Dispensing Power. I think no persons were present but the twelve Judges, and I am pretty confident of it. The question was delivered by word of mouth, by lord chief justice Herbert, 'Whether the king could dispense with the statute of 25 Ch. 2. and the accepting a Commission by that Dispensation?'"—He then withdrew.

Sir *Samuel Astrey*, being interrogated by the Speaker, said, "Lord chief justice Herbert, Wright, and Holloway, were present at pronouncing the Judgment in the Case of sir E. Hales and Godwyn. The Opinion, in the Dispensing Power, was pronounced by lord chief justice Herbert, who said, 'It was not only the Opinion of the Judges in the Court, but he had consulted the rest of the Judges, and it was the Opinion of ten of them.' He said, 'There was another Judge did hesitate when they did meet.' I beg pardon if I mistake in words, but in substance he said 'Ten were for it.' Justice Streete was against it, and another Judge did hesitate, but that he was informed, by Holloway, that Justice Powell had declared his Opinion for it."—He withdrew.

Sir *Robert Henley*, being interrogated in like manner, said, "I was present in Court 2 James

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2. when the case of Hales and Godwyn was argued. There were present in court lord chief justice Herbert, Wythens, Holloway, and Wright. The Case was argued but once, by a young gentleman, Mr. Northey, against the Dispensing, for Godwyn against Hales, upon an Action of Debt on the Statute, *Tam quam*, &c. The king's counsel argued for the defendant on the other side. I am certain these were the Judges. I looked on my Book. The Case was argued but once, not *seriatim*, but by Herbert only: He said, 'He had consulted the Judges, and they did all concur; but that Streete and another Judge doubted.'"

Mr. *Garroway*. I have something to ask more. I would know who were the king's counsel, who argued against the king? That was a very pleasant thing.

Sir *Robert Henley*. "Sir Thomas Powis, the Solicitor-General, argued for Hales, and Mr. Northey for the king."

Sir *Samuel Astrey*. "I cannot charge my memory with lord chief justice Herbert's argument."

Sir *Robert Henley*. "I remember, the precedents cited were for 'the necessity of it, and that the king was judge of that necessity.' The Rule-Book will exactly tell the day."

The Oath of the Attorney-General, and the Ecclesiastical Commission, were then read.

The *Speaker*, to Mr. Bridgman. The House have read the Ecclesiastical Commission, and they find your name in it as a Register. They would know whether you attended as Register?

Mr. *Bridgeman*. "I was generally there and attended, but, in my absence, Mr. Smith of Doctors Commons attended. In the business of Magdalen College, one Tucker, my clerk, then attended. I was sent for to Westminster, being in the secretary's office, and the commissioners gave me a draught of a warrant to ingross: I heard nothing of it before. Lord Sunderland brought it, but I remember not who carried it to seal. I entered all down in a book, who were present. Smith and Tucker were my clerks that entered them in the book. We had loose papers as minutes, which were entered after the rising of the court, and the book was the Register I kept."

Sir *Tho. Clarges*. I hear of a committee of lords and others, called 'Regulators for all England;' I would know whether there was such a Committee, and who sat in it?

Mr. *Bridgeman*. "I attended the Commission, at the Judgment given upon the bishop of London. I cannot charge my memory with the names of the Commissioners in the Books, but I remember there was a difference of opinion, at two meetings; they did not agree both times. The lord chancellor, lord Powis, lord Castlemaine, sir Nich. Butler, and father Petre, were of the Committee for Corporations. I cannot say, they sent Instructions into the country, for I attended only in the secretary's office. That business was managed by Mr. Brent for me. I was frequently sent for to attend the committee. I have seen the names of persons in the country, that consented or refused taking the Penal Laws and Test, &c. but I never saw any but loose papers, all in one hand-writing, and in the Secretary's Office, and, I believe, some of these papers are in my custody still. I was not employed in the surrender of Charters, only in the secretary's office. I was present when the Warrants were signed for the commitment of the Bishops to the Tower, and I remember not who signed; only two or three lords went out, and did not sign. I remember the earl of Berkeley only. I was indisposed in my health, and remember no more."

A copy of the Commitment of the Bishops to the Tower was delivered in and read.

Mr. *Smith*. I observe that Bridgeman was sick, when he had no mind to tell who they are; pray ask him very strictly, whether there were any more, and who they were?

Sir *Robert Clayton*. I would know, whether Penn and Lobb were of that Commission?

Mr. *Garroway*. I would have Mr. Bridgeman recollect himself of the names, from his notes.

The *Speaker*. Mr. Bridgeman, the house takes notice that the persons you name are either dead or absent; can you name any others present?

Mr. *Bridgeman*. "There were my lord chancellor, lord president, marquis of Powis, earl of Castlemaine, Mr. Petre; these met at lord Sunderland's Office. Brent and Trinder, to my best remembrance, managed. Robinson attended. I never saw Penn nor Lobb there, In the Case of the bishop of London, lord chief justice Herbert dissented. In Magdalen-College, and all public matters, he dissented to every one. I know not particularly as to the bishop of London's Plea, but he dissented to all public matters."

Mr. *Kendall*. I hope you will consider lord chief justice Herbert, for the sake of a noble person, his brother (lord Torrington) who lately had your thanks for his good service, and show him favour for his sake: though he is of a different opinion from his brother,* yet he has a natural affection for him, and I hope you will consider him for his sake.

Mr. *Holt*. I had my education in Winchester-College with lord chief justice Herbert. I have discoursed this point of Dispensation with him. He aimed at nothing of preferment; it was his opinion and judgment; but he went

* "So little regard had the Chief Justice's nearest friends to his opinion, that his brother, admiral Herbert, being pressed by the king to promise that he would vote the repeal of the Test, answered the king very plainly, 'That he could not do it either in honour or conscience.' And though he was poor, and had much to lose, having places to the value of 4000*l.* a year, he chose to lose them all rather than comply." Burnet.

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not so far as king James would have had him, and, in the proceedings of the Ecclesiastical Court, he did dissent from the rest.

Sir *Wm. Williams.* When he gave Judgment, &c. he did say this that did allay me: 'He would not serve purposes to destroy parliaments, and he would not give his Opinion to dispense the lords and commons from taking the Oaths, &c.'

Sir *Robert Cotton.* If Herbert did not come up to the others, and order soldiers to be hanged up for deserting their colours in time of peace—I would except those who had their hands in blood. You have heard how he carried himself in the Ecclesiastical Commission.

Sir *John Thompson.* I think we are out of the way. We were for naming men to be excepted, and why should one man be excepted, and not another? If you will excuse them all, with all my heart. If they partake of the same crime, it is fit they should have the same punishment. Consider in the lump, whether they shall be excepted on this Head or not?

Mr. *Boscawen.* I would not have all Oblivion and Indemnity. I would have some punished for example. God forbid all offenders should be excepted! I took the sense of the house to be, that some should be excepted, &c. and that implies you will excuse others, and I am at liberty to pardon Herbert.

Sir *Joseph Tredenham.* By what I have heard said, Herbert is not one of those notorious offenders you aim at. He tied up his Opinion to one particular case, and gave not a general opinion.

Mr. *Papillon.* You have excepted none yet for life; this Head is only for pains and penalties. I see not how you can excuse this person, if you take any other person in. All have been upon this foundation. If you excuse this man totally, he may be Chief Justice again, and then maintain this Opinion. He has been the Head of this Opinion; so you must do something on him, but as little as you will.

Mr. *Hawles.* If I would consult my affections, this is the gentleman I would have pardoned. I know him an honest gentleman. If you excuse him because a man of learning, strike off all that head. Milton is not a man of learning, and Wythens, I think, very little so. If he judged well in other things, except him now: he went out upon the City-Charter; he was not for a total Dispensing Power; he was for a man to be hanged in his own country, and not at Plymouth, for deserting. If you will admit these excuses, lay all aside. If I would plead for any of them, it should be for him. But since the penalty of death is passed over, yet I would have a punishment, though a mild one, and except him.

Mr. *Leveson Gower.* If he must be excepted out of the Act, I would have your advice, whether you will not make a conditional proviso that the king may pardon him. I hope it will be in the consideration of the house, that then he may be left to the king's mercy, when you come to the pains and penalties.

Sir *Robert Howard.* I am willing this person receive favour and mercy, but not for the reasons proposed, 'That his Opinion was his conscience and judgment.' But the matter is, now we are against the Dispensing Power, that we should be the great dispensers of the law. They held an Opinion, 'That the king was supreme, and might dispense;' shall we dispense with this? We may become censured in this place. As he was the first mover of this Dispensation, so his brother, the admiral, was the first who gave his opinion against it, and frankly gave up all he had. I think the Judgment must be, he must be excepted, and then that you will petition the king (for his brother's sake, who deserves as much as any man) that it may be upon his merit he is pardoned.

Resolved, "That sir Edward Herbert be excepted out of the Bill of Indemnity upon this Head."

Debate on Mr. Justice Wythens.] Sir *John Lowther.* I am afraid that excuses will be unwelcome to this house. I say, in behalf of this man, that no sooner was he promoted, but to all sorts of men he denied patents of Dispensation from the oaths. He did it only as to officers in the army: but he has said before good witnesses, 'That he wished his tongue had cleaved to the roof of his mouth, when he gave judgment, &c. and if the parliament should consent to the Dispensing Power, he should never think them men of honour more.' He lost his place for his Opinion about hanging the soldier, who run from his colours. He was never corrupt; he never took a shilling. I perceive I am ill heard upon this subject, [there was a great noise,] but I leave him to your mercy.

Sir *Francis Blake.* This man was in the blood of sir Tho. Armstrong; he was one that condemned him.

Mr. *Harbord.* This gentleman was brought on his knees in this house, about the abhorring Petitions to address the king for the sitting of the parliament*.

Sir *Christ. Musgrave.* I suppose you intend an Indemnity, and your Exceptions not to be many. I know this gentleman, and must do him right; his Opinion was only to that particular matter before him, (Hales's). Herbert wrote a Book in defence of the Dispensing Power; but this man did not: no man can think me a favourer of this Dispensing Power. I beg your mercy for him.

Mr. *Hawles.* This man was deep in almost every thing: except as to the Soldier, you will find him involved in all things.

Sir *John Lowther.* I have no obligation to this gentleman, and thereiore can only testify what I have said. He stayed but one entire term in his place, after he gave the Judgment of the Dispensing Power. There is mercy be-

* See vol. iv. p. 1174.

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fore you as well as judgment, and I hope he will find mercy.

Sir *Joseph Tredenham.* I was with him in the western circuit, and I must bear him witness, that he was against the Dispensing Power.

Resolved, "That sir Francis Wythens, and sir Rd. Holloway, be excepted out of the Bill of Indemnity."

Debate on Lord Chief Justice Wright.] Sir *Tho. Clarges.* If any fact he hath done be felony, or treason, make his estate forfeitable, and I am for it. But where there is no offence in law that he has committed, I would not have him excepted.

Sir *Tho. Littleton.* It would be an ill thing for such a man to be upon your Books, to stand there with no mark upon him.

Resolved, "That sir Robert Wright be excepted."

Debate on Lord Chief Justice Bedingfield.] Sir *Tho. Clarges.* This is an extraordinary precedent. I would have the committee search precedents. I have not known, when a man has had no capital crimes against him, that, when he is dead, you have proceeded against him.

Col. *Tipping.* If you will not except him out of the Indemnity, why have you excepted Herbert, and the rest? Lord keeper Coventry was fined 10,000*l.* when he was dead, for the Judgment he gave upon Lilburn in the Star-Chamber.

Sir *Christ. Musgrave.* This case is quite different from the rest. This gentleman gave no Judgment in court, any more than in private discourse and conference, and I cannot give the same judgment against him as if he gave it in court.

Sir *Joseph Tredenham.* Before you pass judgment upon this gentleman, to attaint him, since he is laid in the dust, pray consider his innocent posterity, and punish not them as if they were really guilty.

No Vote was passed upon him.

Debate on the Lords Amendments to the Bill of Rights and Succession.] June 19. On the 9th of May, the commons had sent up a Bill to the Lords, for declaring the Rights and Liberties of the Subject, and settling the Succession of the crown; which their lordships having considered, they found the latter part of it (as they thought) defective, no mention being made in it of her electoral highness the princess Sophia, dutchess of Hanover; and thought fit, amongst other Amendments, to add a Proviso in her highness's favour. The Bill, thus amended, was this day returned to the commons.

Sir *John Lowther.* This looks like a kind of perpetuity. There may be revolutions and changes; this princess of Hanover may turn Catholic. Queen Elizabeth would not determine the Succession, and she was a wise princess. Till I am better convinced, I cannot agree to it.

Sir *Rowland Gwynn.* In the Instrument, you have limited the Succession of the crown, and I would do nothing contrary to it.

Mr. *Sacheverell.* I desire you to consider what you do, before you agree to this addition. Is it your intention that those bred abroad Calvinists or Lutherans, that may come to the crown, and receive not the sacrament according to the church of England, shall be taken for papists? Will you exclude that king that should marry a Papist, and know her not to be so? To exclude a Papist barely, so far I can agree. The other clause is putting it into the power of the privy-council to name you a king. He shall be no king, till he shall take such an oath as is tendered him by the privy-council, and it lies in the power of the council to tender it. Had it been left to the parliament, I should not have been against it, but I would not leave it in the power of the privy-council to tender the oath, or not.

Sir *Tho. Clarges.* When queen Elizabeth died, king James was in Scotland, and he had no invitation to come hither, but by the privy council. Cardinal Richlieu used to say, 'Two words often spoiled things, *faisons mieux.*' There has rarely been this occasion. When queen Elizabeth was declared queen, the privy-council invited her to accept of the crown.

Sir *Tho. Lee.* The privy-council did it not alone, and there was no such power in the council alone; but it was done by the lords, the lord mayor, the noblemen, gentlemen and citizens.

Mr. *Boscawen.* Though he be a Papist in his heart, yet if he takes the oaths, he may be king. The prince of Wales beyond sea, by this Amendment, may be called in.

Sir *Robert Sawyer.* The privy-council summon all the lords in and about the town. The lord mayor is not summoned; but when they proclaim the king, the lord mayor is sent for to proclaim him. A short Amendment may do this; some power must be lodged somewhere. It is of dangerous consequence, if on the sudden, and no parliament sitting; and he that comes in may be a Papist.

Sir *Robert Clayton.* I have not looked into the matter much. I have seen the original Proclamation of king James. The lord mayor of London signed the Proclamation first; his power was not determined by the king's death; his power was in being when all other commissions ceased, for he has it by charter, and not by commission.

Col. *Birch.* Consider well, before you throw out this clause; but make it larger, 'That the lord mayor, and the lords about town, may proclaim, &c.' You may mend it at the table.

Mr. *Garroway.* I think it is not so easy to mend it. I hope gentlemen will not exclude themselves from this right of being a party in proclaiming the king.

Mr. *Hampden.* Whatever the clause is, be pleased to remember, 'That the lords desire you to sit, and have something to communicate to you of great importance.' All I know of it is, if you delay this Bill, it may be of little use to you.

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Sir *Tho. Lee.* I desire gentlemen to consider, that, if you adjourn this till-tomorrow, no debates can intervene between it. I think the Bill has lain too long already, and shamefully too long upon the table. *

Treasonable Papers communicated to the House by order of the King.] The same day the house of lords communicated certain treasonable Papers to the house, by order of his majesty: before the reading of which, Mr. Hampden acquainted the house, "That the said Papers were found upon two persons, who were going to Ireland, in a ship which had stole out of the port of Liverpool, but was stopt about five miles at sea: that they were dispatched up to town, by the mayor, and that the Letter to Piggott, and two more, were written by king James, though he had, in one of them, somewhat disguised his hand."

Debate thereon.] Mr. *Garroway.* It has been some wonder to me that the relief of Ireland has been so slow. I hope this will quicken those it concerns. Let them look to it whom it concerns, and if they give not a good account of it, you may call them to question.

Mr. *Howe.* It seems, the Committee is fallen that was to draw up the Impeachments; it is time to call those persons to question before they do more mischief; if we lose Ireland, and Scotland be lost, we are never like to give an account of England. A great many of king James's former servants are still in employment; they are too many to name them. Some in the lords house have protested under their hands, 'that we cannot impeach commoners;' I think all these persons ought to be proceeded against.

Sir *John Guise.* What you have before you is of the greatest importance.

Mr. *Hampden.* This was thought, by the king, of great weight and consideration. Two things in these Letters are clear; the intended Invasion, and a Conspiracy in England. They are no fictions, nor plots forged upon you; but has there been more Money given than is needful? You have given great sums, and great sums I find have been employed. In the civil government, not half has been applied to it, but to the public charges. The king, I may say, has robbed himself to supply the public. You say yourselves, the Fleet cost you 1,300,000*l.*—The Civil Government, the Money for the Dutch, and that borrowed of the City. This is but head arithmetick, but I say this in general, that there is not so much mismanagement, nor miscarriage of the sums you have given, (and gives a large Account of the Revenue.) †

Mr. *Leveson Gower.* The hon. gentleman has proposed nothing. I should be glad to hear of something of what is wanting, and where it may be had.

Mr. *Hampden.* I have told you the danger, and the king has sent a Letter to have your assistance. Pray tell the king how the French shall be kept out. One thing I will propose; put the Militia in good order, and what the king wants supply him with.

Mr. *Smith.* No doubt the king desires your advice to extricate him out of his danger, but I think the Accounts proffered to be showed us are not so proper at this time. The Army is upon the roll 60,000 men, and I can make it appear, that there are not 40,000 men; so there is something struck off in the charge. I know no way to secure you, but to secure the most considerable Papists in England. I would know why persons have stopped the lieutenancy of Middlesex from seizing Papists, and taking away their horses? I should be glad to give Money—King James takes estates in Ireland; I know no better way than to seize their estates, like him, for your use, and I doubt not but those will supply you for the present.

Mr. *Howe.* I hear it said, 'there is no Money misplaced.' I would hear how it is applied. I shall give it more heartily though not so discreetly as those who were of king James's Council, and now in council and employment. I would know the retarding of the Fleet, and the relief of Ireland. I believe those about the king do tell him. We see miscarriages; they cannot be at our doors, nor the king's. There are several in Council, not our friends. He that was against abdicating king James, and, 'the throne not vacant,' is not fit to be trusted in k. William's Council.

* The Clause occasioned the loss of the Bill this session, both houses adhering, the one to retain, the other to reject it. Add to this, that it became less necessary on account of the birth of the duke of Gloucester, on the 27th of July.

† "Mr. Hampden had neglected the usual arts of ministers, to bespeak the favour of the majority: so that instead of carrying his point, he was not so much as seconded; no not even by his own son. On the contrary, having, in the course of his speech, insisted on the necessity of a farther Aid, to save the nation from falling into the hands of the Irish and French, another member said, 'Add the Dutch.' Mr. Garroway, though a known Williamite, gave it as his opinion, That they had granted money enough for one year; that if they had thought there had been occasion for more, they would have prevented the king's demands: That it was not the want of money, but the ill conduct of those who had the management of affairs, which caused the difficulties of the government: that the Miscarriages in not assisting the Protestants of Ireland, were both so manifest and so pernicious in their consequences, that if they were not speedily remedied, the house would be obliged to take notice of them. Mr. Howe had the boldness to assert, That their present dangers proceeded from their not addressing the king to remove his evil Counsellors, in conformity to his late motion." Ralph.

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Sir *Tho. Clarges.* By what we find from these Letters, we ought to provide for our security; but to have a sad tale told us, and Money at the end of it, is very extraordinary. Let us have the state of the monthly Revenue. All you have given will come in neat money at St. John come twelvemonth. I am not given to farming, but, I believe, the money in the Poll-Bill may be rated at 600,000*l.* You are told by Hampden there is need of four million; is that for four months charge? Let us see our fair monthly charge; it seems so great; and yet the poor Irishmen are not relieved. We have had war with France and Holland, and not still 'Money, money, money.' I have those accounts, and could have produced them, if I had thought of this. The Revenue this year is nearly 1,800,000*l.* I hope, the customs and the Excise will answer the expence in the largest extent. I do not desire the crown should be straitened, but all we have given is not to be spent in 3 months, and more money for that which is given already, to set things on the wheels till we meet next. Let the country breathe a little, I pray; though all the money is not paid out of our lands; yet the farmers have paid their polls. We are trusted by the people with their estates, and their lands; let leave be asked, according to order, for a motion for Money, and not be brought in by surprize.

Sir *John Thompson.* I do not wonder that gentlemen of the Treasury move for Money. It is an odd way this, to ask money for Holland, when the danger is in Ireland. Pray let us know what is in the Treasury. In Monmouth's business, there was 400,000*l.* given to suppress it, and the money is scarce paid in to this day. If you will have an account from persons in office, how fit it is for your service, pray consider of it.

Sir *Christ. Musgrave.* I will not take upon me to say how money has been employed; of that I know not; but we are past money, sure, now. The whole Scheme of it has been before you. The Revenue has been paid, and that is considerable. You compute for the Navy but from March, and in winter when all comes in, then it is time to think farther of Money. I hope such an Army, with the Militia we have, and the Fleet, may hinder all invasion, if we are so great in force; and we hear nothing of the Holland Fleet, nor our alliance with them. There can be no occasion for Money till winter.

Mr. *Smith.* We are told, in the Letters, of a conspiracy, and I wonder all should be strangely ended in Money. The papists are all conspirators, and ill protestants join with them. As has been moved, I would have the Papists seized, and I would address the king for a proclamation limiting a time for those with king James: recall them by a day limited; if they surrender not themselves, seize their estates. Let us know why orders to seize the horses and arms of Papists have had counter-orders. If that was done, I doubt not but the king may appear at the head of the militia as well as at the head of a standing Army.

Sir *Wm. Williams.* You have had it proposed, by Hampden, 'Advice and Assistance;' Advice what to lay before the king—'Tis no time to form a law for the militia; let us make use of it as it is; you ought to execute the laws as they are, and let them form the Militia as well as they can; there are men enough in England to defend themselves, and money enough. If we must send abroad for men, we are in a miserable condition. If there be men and money enough, nothing remains but management. I have heard very little to-day but what I heard a week ago; there wants nothing but management. I would have a Committee of lords and commons to sit in the interval of parliament, to manage affairs.

Mr. *Garroway.* I never heard of such a proposal as this is for lords and commons, &c. to take the government out of the king's hand. We have heard little to-day but what we heard a week ago, and it weighs little with me. Let us know who returned the horses and arms taken from the Papists—And now we talk of the Militia. I would address the king to know who ordered these horses to be delivered back again to the Papists.

Col. *Birch.* When I speak for Money, I would lay the fault where it is. I will not talk of Account of Money now. It is pity these brave fellows in Ireland should be deserted; we are likely to lose those 10,000 brave men, to our shame all the world over. It is said there is a boom cross the river to Londonderry; a new fashioned thing! We are told by the Letters, 'That about the time king James should come to it, it would be delivered up.' This I say, it is a sad case they should be eaten up in the North, when, at the narrow sea, they may go over into Ireland twice a day. I wonder, notwithstanding this boom, we land no where else. Let them waft over, and cut this boom in pieces; there is no great force with king James. This may be done, and this is advice; and if with our men we cannot go ashore near, in 18 or 19 miles going they may go ashore; and if you do not land men, never think to regain Ireland.

Mr. *Hampden.* Gentlemen seem to be displeased that persons are not removed. As for myself, I would willingly resign my place, but I would have such persons named as gentlemen would have removed. The city, upon these Letters (it may be) will seize the Papists and all suspected persons that may disturb the government.

Resolved, 1. "That an humble Address be presented to his majesty, that the considerable Papists, or reputed Papists, of this kingdom, may be forthwith taken into custody; and the arms and horses of all Papists, and reputed Papists, be searched for, and seized. 2. That whatever Protestants, who shall own, protect, or conceal, any arms or horses, belonging to Papists, or reputed Papists, shall be looked upon as enemies to their majesties and

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this kingdom; and be proceeded against accordingly. 3. That the humble Thanks of this house be given to his majesty, for his gracious communicating of divers Letters, and other Papers, which were intercepted coming from Ireland; and this day sent to, and read in this house."

Farther Debate on the Lords Amendments to the Bill of Rights and Succession.] Serjeant *Wogan.* I think the lord mayor and nobility in town should be joined with the lords of the council to tender the Declaration and Subscription. I think it not safe in the hands of the lords of the council of the last demised king only.

Mr. *Foley.* Here is a power in the Bill vested in the privy-council, to declare that the next heir shall inherit the crown. I would commit it.

Mr. *Howe.* I think this Bill will not give satisfaction to the nation; it excludes all commoners from tendering this Declaration, if none but the lord mayor be admitted. If the last house of commons were to be summoned, it would content the people.

Sir *Tho. Clarges.* To have the last house of commons sent for would have great inconvenience in it. The custom is, upon demise of the king, that the nobility meet, and declare the Successor, as it was done in the case of queen Elizabeth *. I think it very well, for such of the nobility as are at hand, and the lord mayor, to declare, &c. and then that commissioners be sent to the king.

Sir *John Guise.* I am not for the lord mayor to represent the commons of England. I think this king came to the crown as well and as rightfully as any of his predecessors, and he did send for all the lords and commons to consult them, and so you will approve what is done yourselves. If not absolutely necessary, I would not have commissioners sent to the king: I think the crown of England is worth coming hither for. I would not put the crown into the hands of a few.

Mr. *Howe.* I think it no great matter if the Clause were cast out, rather than to have commissioners to bring in what king they please.

Mr. *Sacheverell.* This is a matter of great importance; here are more things than one, and this Clause will not do. In the same clause they are kinged and unkinged again; and an intermission of Interregnum during the time of swearing. I think it fit for a committee.

Mr. *Hampden*, sen. I am for committing the clause, by reason I would make as few differences with the lords as I can. This Bill I take as a confirmation of what we have done, when the crown was presented to the king and queen. What would be the consequence, if the lords should not agree with you? (As I hear, the Bill for settling the Crown escaped narrowly, for a Clause in it was carried but by two votes). But this is *in majorem cautelam*, or confirmation of what you have done; it would weaken it all, and much hazard it; unless absolutely necessary to differ, I would not, but pray commit the clause.

Mr. *Sacheverell.* As to the other Amendment, should you agree with the lords in this, the Dispensing Power is confirmed, for the future. If thought necessary, there may be a Bill to dispense in some cases, &c. but of those but a few. If any can be so dispensed, it is not fit a Judge should chuse what laws are fit to be executed, and what not. If you say in a Bill what laws are fit to be dispensed, and what not, then it is for the safety of all England.

Mr. *Garroway.* If you agree with the lords for what they have done already, and exclude the Judges, you cannot punish them. I would not agree.

Mr. *Ettrick.* You heard, the other day, that in Hales's Case, the Judges did agree, 'That the law was the king's law, and he might dispense with it;' and seeing you can find no qualifying clause in this, I see no other way but by Bill. In the mean time I would disagree with the lords.

The *Speaker.* You cannot now amend your own Bill, but you may qualify the lords Amendments.

Serj. *Wogan.* In the 28th Hen. 8. the lord chief justice, &c. were excepted from the circuit in the place of their birth and residence; and it is hard, on the other hand, that the king cannot dispense in any case. Perhaps the sheriffs attend the king, or this house, so that if the king could not dispense with their residence, they would be in an ill case; if the Star Chamber were up, they might be fined. Sometimes a Jury may be headstrong, and find it murder in the person whom he killed *defendendo*; you will, by it, restrain the king from all mercy, and especially in the case of Mercy, it is against the nature of all government.

Sir *W. Williams.* I am for agreeing with the lords. If that stands for law, that the king can have no power to dispense in any case that can happen, then perhaps you will find that the subjects shall suffer more in this than in the Dispensing Power. Because Pardons have been abused in Impeachments, shall the crown have no power to pardon? 'Tis as necessary for the people as eating and drinking. People will necessarily stand in need of Pardons. I would not clog this Bill for Limitation of the Crown with this. It will be more natural in a Bill by itself. No man in the house, nor in the world, but will think this necessary in a Bill. It will have free agitation in this house, and before the lords. I would agree with the lords.

Sir *Tho. Clarges.* 'Tis now six weeks ago since this Proviso was tendered, and the gentleman told you it was necessary in five or six cases. It seemed, at the Committee, the king had that Power, and, in all debates, that that might have been done. For the king's Power of Pardoning there is no doubt; but I say, by the law the king has no Power of Dispensing. He

* See vol. i. p. 631.

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has none by statute law, that we know, nor by common law. In *Non obstante*s, they say, why may not the king dispense as well as the Pope? This is of vast consequence, and, I believe, the lords have advised with the Judges about it: but at a conference, we shall show, how convenient it is for the king to dispense in case of a misnomer for murder. The Judges are going the circuits, and the Attorney General may easily consider of it, to part with this Clause, so dismal to our liberties; and, I hope, you will agree with the lords.

Mr. Attorney *Treby.* I shall endeavour to rectify a mistake; you are told, 'the Bill was drawn by the king's counsel.' If you can show such an order, I will draw a Bill extempore. If the lords have made an order for the Judges to inspect the Bill, much more is it incumbent upon you. As for drawing the Impeachments, I can never do it till the committee will meet; and as for the king's Power of Dispensing, it is said, 'He can neither do it by common nor statute law;' for common law there is nothing above Henry 3. 'Tis said, though that be convenient, yet it was before—For statute law it is plain, that by many kings this Power has been executed, and without reproof of parliament; I believe it. Judge Hale gave Judgment of Dispensation in the Case of Thomas and Sorrel; but if enquiry be made, and you find it founded originally upon no solid bottom, nothing but a parliament can say, that is not a law convenient to be used. A stone ill placed in a wall at first may be mended, but you would not undermine the inheritance of persons. In Hanson's Case, a man was supposed to be murdered, and was not; therefore there was a reason why the king should pardon him; and it must be taken for law, because a continuance of practice. You say, 'The late king did use that Power of late, and dispensed in a case not dispensible;' not to John and Thomas, but all the people at once. 'Tis said, 'That, if we do not something in this, we acquit all the Judges of what they have done, and condemn ourselves.' There is not one word of retrospect in the Bill; but it says, 'From the first of June no *Non obstante*, but as formerly;' all the proceedings of the Judges are in the same state as before. When reading will satisfy, I need not speak; pray read the Clause.

Mr. *Sacheverell.* I hope Treby will justify me, that I attended the committee. As to this other, I would know how came the Clause of *Non obstante*, if the king could dispense without it? For the time past, I am glad to put up with a great many injuries done us, only to prevent for the future.

The Clause was ordered to be committed.

Petition of John Bearecroft, Esq.] June 21. A Petition of John Bearecroft, esq. serjeant at arms to Charles 2, was read; setting forth, "That the petitioner, being always zealous for the Protestant interest, was made choice of by the late earl of Manchester, then lord chamberlain, and by the then secretary Morris, to arrest and take into his custody several Popish Priests and Jesuits, who kept a mass-house and school in Holborn, and perverted many Protestants to the Popish religion: which the petitioner faithfully performed accordingly, took them from the very altar, and brought them prisoners to Whitehall; for which he hath, ever since, gone in danger of his life; and was forced to dispose of his place at Whitehall, and to abscond himself; and, having but one only son, did settle what he had on him, that thereby he might receive a competent maintenance from him during his life: but, the petitioner escaping the rage and fury of those times, his said only son was murdered in the street by one Narrative Smith, a Popish priest; and the petitioner thereupon immediately thrown into the King's-bench prison, to his utter ruin, and remained there prisoner till this most happy Revolution; not doubting then but to have found suffering men to have been rewarded: but, finding the contrary, and his petitions being rejected, for any place above-stairs in the king's household, by those that had the disposing of most there, that both knew the petitioner, and his former services and sufferings; and that they openly sold the places to those that would give most for them; and the petitioner wanting bread at this time; notwithstanding which he was forbid to trouble them any more: and praying, that the house would be pleased to call before them Fleet Sheppard, Simon Smith, and Rich. Cooling, esqrs. that they may give an account of the many thousand guineas they have unjustly got from those now put in his majesty's service; and that the petitioner may be impowered to bring forth his witnesses to prove the same."

Resolved, "That the Petition be referred to the committee appointed to inquire into the abuses in the Selling of Offices, and to prepare a bill or bills to prevent the abuses in selling Offices for the future."

Debate on Irish Miscarriages.] June 22. Sir *Edw. Seymour.* I do not apprehend how 400 men can keep England safe, if those who manage Ireland play fast and loose with you. It is time to enquire after these Miscarriages, and to repair to the Council-Books, for your information and satisfaction. If you do not what has not been done before, you will be what you were before. I was not for the abdicating Vote, but I am for preserving the government.

Sir *Christ. Musgrave.* If you appoint some to inspect the Council-Books, unless they may have copies, I know not what use you will make of them. You must take the whole matter, and gentlemen will not undertake to say what is fit to report, and what not.

Mr. *Howe.* I second the motion. The hearts of the people are upon Ireland, and there is a fault somewhere. Some lay it on the house of commons, others somewhere else: for the satisfaction of all persons, I desire the Committee may have Copies of the Books of all the Orders, &c. and the transactions relating thereunto.—Which was ordered.

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Case of Mr. Samuel Johnson.] June 24. Mr. Christy reported, from the Committee, to whom it was referred, to examine how and by what authority Mr. Samuel Johnson came to be degraded, That the committee find the Case to be as followeth; viz.

"That in Trinity Term, 2 Jac. Reg. 2, an Information was exhibited against the said Samuel Johnson, in the King's-bench, in the name of sir Robert Sawyer, the king's attorney general, for making, printing, and publishing, a scandalous and seditious Libel, intituled, 'An humble' ****. That, the same term, they forced him to plead; procured a jury to find him guilty; convicted him; and gave the Judgment following, which was pronounced by sir Francis Withens; 1. To pay 500 marks to the king, and to lie in the prison of the King's-bench, till it was paid. 2. To stand in the pillory three days, in three several places; viz. the Palace-yard, Charing-cross, and the Old Exchange. 3. To be whipped by the common hangman from Newgate to Tyburn.—That the Judges of the King's-bench, who sat then in court, were the lord chief justice Herbert, sir Francis Withens, sir Robert Wright, and sir Richard Holloway. That the Sentence was to be executed in Nov. in the next Michaelmas Term; but they desired, that Mr. Johnson might be first degraded; for that it would be a scandal to the clergy, to have so infamous a punishment inflicted upon a minister.—Whereupon he, being a prisoner in the King's-bench, was summoned the 19th Nov. 1686, to appear the next day, in the Convocation-house of St. Paul's, in the diocese of the bishop of London; he being rector of Curringham in Essex, within that diocese. Upon the 20th, a Habeas Corpus was brought to carry him from the King's-bench prison to the Convocation; where he found the bishops of Durham, Rochester, and Peterborough, commissioners to exercise the authority and jurisdiction of the bishop of London, during his suspension, with some clergymen, and many spectators; and a libel exhibited against him by one Godfrey Lee, a proctor, dated that day, charging him of being guilty of great misbehaviours; but specified none, nor proved any; and only referred to a record before the king's temporal judges.—That Mr. Johnson demanded a copy of the Libel, and an advocate; both which the bishops denied him; but proceeded immediately to sentence him: which was, 1. That he should be declared an infamous person. 2. That he should be deprived of his rectory of Curringham in Essex. 3. That he should be a mere layman, and no clerk; and deprived of all right and privilege of priesthood. 4. That he should be degraded thereof, and of all vestments and habits of priesthood. 5. That he should undergo the punishments aforesaid. Against which proceedings Mr. Johnson protested, as being against law, and the 132 Canon, not being done by the bishop of London, his own diocesan; but they refused his protestation.—That then he appealed to the king in chancery; but they refused to admit his appeal. And immediately they proceeded to execute the said Sentence, and to degrade him by putting on his head a square cap, and then taking it off again; then they pulled off his gown, then his girdle, which he demanded as his proper goods, bought with his money, which they promised to send; but they cost him 20*s.* to have them again. After all, they put a Bible into his hand; which he would not part with, but they took it from him by force. All this was done, viz. the Libel, Sentence, and execution of it, in three hours space, on Saturday the 20th of November, having decreed summarily, as they did.—That, on Monday after, the Judgment in the King's-bench were executed with great rigour and cruelty, the whipping being with a whip of nine cords, knotted, shewed to the committee; and that Mr. Rouse the under sheriff tore off his cassock upon the pillory, and put a frize coat upon him.—That Mr. Johnson's wife had also an Information exhibited against her in the King's-bench, for the like matter as that against her husband."

Resolved, "1. That the Judgment against Mr. Johnson in the King's-bench was illegal and cruel. 2. That the Ecclesiastical Commission was illegal; and that, consequently, the Suspension of the bishop of London, and the authority committed to the aforesaid three bishops, was null and illegal. 3. That Mr. Johnson not being sentenced, deprived, and degraded, by the bishop of London (if he had deserved the same), was illegal. 4. That a Bill be brought in to reverse the Judgment in the King's-bench; and to declare all the proceedings before the three bishops to be illegal, null, and void. 5. That an Address may be made to his majesty, to recommend Mr. Johnson to his majesty's favour, for some ecclesiastical preferment suitable to his services and sufferings."

Articles of Impeachment against sir Adam Blair and others, for dispersing king James's Declaration.] Mr. Attorney-General reported from the committee, to whom it was referred to prepare Impeachments against sir Adam Blair, captain Vaughan, captain Mole, Dr. Elliot, and Dr. Grey, That they had prepared and agreed upon an Impeachment, accordingly: which he read in his place; as followeth:

ARTICLES OF IMPEACHMENT OF HIGH TREASON, and other high crimes and offences, against sir Adam Blair, captain Henry Vaughan, captain Frederick Mole, John Elliot doctor in physic, and Robert Grey doctor in physic;

"Whereas king James 2 having abdicated the government; and their majesties king William and queen Mary having, on the 13th day of Feb. 1688, accepted the crown and royal dignity of this kingdom, according to the Resolution and Desire of the lords spiritual and temporal, and commons, now assembled in parlia-

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ment; their said majestics did become, were, are, and of right ought to be, by the laws of this realm, our sovereign liege lord and lady, king and queen of England, and the dominions thereunto belonging, in and to whose princely persons the royal state, crown, and dignity of this realm, with all honours, styles, titles, regalities, prerogatives, powers, jurisdictions, and authorities, to the same belonging and appertaining, were and are most fully, rightfully and intirely, invested and incorporated, united and annexed; and their said majesties have been solemnly and publickly crowned, according to law, and the laudable custom of this realm: and whereas, in and upon their majesties preservation and government, the unity, peace, tranquillity, and safety, of this nation, doth, under God, consist and depend: nevertheless sir Adam Blair, capt. Henry Vaughan, capt. Frederick Mole, John Elliot doctor in physic, and Rob. Grey doctor in physic, being subjects of their majesties, together with divers others their complices and confederates, wholly withdrawing the faith, and due allegiance, which true and faithful subjects should, and of right ought to bear to their majesties, as false traitors to their majesties, and this realm, did, upon the 10th day of June, 1689, and at divers other times, most wickedly and traiterously design, contrive, agree, conspire, resolve, and, to the utmost of their power, endeavour to disturb and destroy the said peace and common tranquillity enjoyed within this realm; and to move, make, raise, and levy war, rebellion, and insurrection, within the same; and to persuade, induce, and incite their majesties subjects to abett and assist them therein; and to deprive and depose their majestics of and from their royal state, title, crown, and dignity; and to subvert the government of this kingdom, so happily preserved and settled by and under their majesties: and to that end they did traiterously assemble themselves, meet, and consult concerning the most proper means to be used, to execute and accomplish the aforesaid wicked and traiterous designs: and, in pursuance of the same, and for the purposes aforesaid, they did traiterously hold, maintain, set forth, declare, and publish, That their majesties were Usurpers; and that the said late king James the 2nd did continue lawful and rightful king of this realm; and did attribute to him the honours, styles, titles, regalities, prerogatives, powers, jurisdictions, and authorities, belonging and appertaining to the imperial crown of the same: and, to compass, fulfil, complete, and bring to effect, their said Treason, and wicked purposes, they did traiterously, maliciously, and advisedly, contrive, make and procure, and cause to be made and procured, a certain detestable and traiterous Libel, purporting a Declaration of the said late king, by and under the name of king James 2; in which Libel it is contained, expressed, and declared, as followeth; viz. "A Declaration of his most sacred majesty king James the second, to all his loving subjects in the kingdom of England." [Here follows the Declaration, see p. 303.]—And they did conceal the said Libel from their majesties, their magistrates, and ministers of justice; and the same did traiterously print, publish, and disperse, and did cause to be printed, published, and dispersed, to and amongst divers of their majesties subjects: and this was most maliciously contrived, prosecuted and done, whilst their majesties were engaged in a just and necessary war, for the defence of this kingdom against the French king, and in the suppressing a Rebellion, procured, supported, and carried on, by the means and for the interest of the said French king, against their majesties, in their kingdom of Ireland. All which Treasons, Crimes, and Offences above-mentioned were contrived, committed, perpetrated, acted, and done, by the said sir Adam Blair, &c. and their complices, against our sovereign lord and lady the king and queen, their crown and dignity, and against the laws of this kingdom. Of all which Treasons, Crimes, and Offences, the knights, citizens, and burgesses, in parliament assembled, do, in the name of themselves, and of all the commons of England, impeach the said sir Adam Blair, &c. and every of them. And the said commons, by protestation, saving to themselves the liberty of exhibiting, at any time hereafter, any other Accusations or Impeachments against the said sir Adam Blair, &c. and also of replying to the Answers, which they, and every of them, shall make to the premises, or any of them, or to any other Accusation, or Impeachment which shall be by them exhibited (as the cause, according to course and proceedings of parliament, shall require); do pray, That the said sir Adam Blair, &c. be put to answer all and every the premises; and that such Proceedings, Examinations, Trials, and Judgments, may be, upon them, and every of them, had and used, as shall be agreeable to law and justice, and course of parliament."

Sir *Tho. Clarges.* This is a case of blood, and I hope, if I am tender you will excuse me. In 19 Ch. 2, there was a committee appointed to consider lord Clarendon's Impeachment. Nov. 6, the Articles were brought in. The course then was, that a day was set to consider, upon debate of the house, 'Whether the facts charged were, in the judgment of the house, treason.' Nov. 9, the consideration of the first Head of the fact of Treason took up from nine in the morning to five at night, 'Whether Treason should be assigned?' Then it was declared, 'That there should be no Impeachment, but on the statute 25 Edw. 3.' Then lord Vaughan stood up, and would make good the 10th article; and said, 'I do accuse lord Clarendon of corresponding with the king's enemies*.' I observe that in this parliament more attainders have been reversed than in any one parliament, and the reason is, the great oppression of Westminster-hall; and these are cautions for succeeding parliaments to be

* See vol. iv. p. 384.

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careful; and I move for a day to consider, whether this be Treason or no.—The articles were then ordered to be engrossed.

*Debate on the Breach of Privilege upon the Earl of Danby**.] Sir *W. Strickland.* I would know how this Breach of Privilege came? I would not have this lord affronted.

Earl of *Danby.* Had I thought this a breach of Privilege, I would have complained, nor was it of that kind. You have so many weighty affairs upon your hands, that this is not worth your consideration.

Mr. *Smith.* I stand up only to tell that noble lord, that, if he will say he was not taken up by a messenger, I am satisfied; if he was, it must be Breach of Privilege; but if there was no such warrant sent, the noble lord will tell you, and you may proceed to other business.

Sir *Walter Yonge.* I would have that lord tell you plainly, whether he was taken into custody? If he will not, you must go another way. Common fame says, a messenger served a warrant upon him; and I desire the messenger may be sent for in custody.

Mr. *Smith.* I am always for the rights of my country, and of this house, and if he will not tell you, an honourable person will tell you, that he saw the warrant; and that is sir John Guise. I would know of him, whether the messenger had not a warrant, signed, 'Nottingham,' to take lord Danby into custody?

Sir *Edw. Seymour.* I do not see any extraordinary method you need take in making enquiry into this matter. The privilege of the house is not to a member only; it is to the house. The highest Breach of Privilege is the imprisonment of a member. If that be not, I know not what is. Where are the debates of this house, if this shall be? Nobody can sit here with safety. Have your predecessors had so much caution in these cases, and will you be indifferent? Shall you suffer your member to be taken out of a supreme court into custody by a Subpœna? That the Speaker, a privy counsellor, should know of an order of council, that breaks your privilege to sit in council, and be not hinder it! This is a catching age for precedents, not only of making, but imposing precedents, when I consider how you parted with the Habeas Corpus act, when you sit here obnoxious to a great man.—Lord Danby says, 'He does not know that his privilege was broken;' but he can tell, if he will, all the matter. Put a buoy upon the anchor, that men may debate freely, and not have that a doubt when we are gone away.

The *Speaker.* Complaint was made to the council of a ship seized at Exeter—Notice was taken that Seymour was a member, and there was no Order, but a messenger gave notice.

Sir *Edw. Seymour.* I shall be tender of representing a thing not as it is. I was served with two Orders, and I said I 'would not appear to the summons of a lesser council, when I was a member of a greater.' I told the king, 'I came in obedience to his commands, but not to the Order of Council, but persons that sat in council should know I was a member.' The king said, 'He knew nothing of it.' When I had the honour to sit in that Chair, and in Council, no member can say that ever his privilege was broken.

Sir *Henry Goodrick.* If we must believe this lord, &c. he tells you, 'It was no Breach of Privilege; but what if I, or any man, say, no warrant was produced; I heard him say, 'A man came from lord Nottingham, and desired to speak with him;' if this be made out, he has dealt candidly with you, and all mankind.

The *Speaker.* We are gone off from the matter. Persons of honour are shy, and think it hard in what concerns themselves: they look upon it as a point of honour. If a warrant was ordered, it was a Breach of Privilege. I cannot blame Westminster-hall, if these things be suffered when you are gone, if, when you are here, you may be served as lord Danby was. He tells you, 'He took it not for a Breach of Privilege!' But that there was a warrant, and served, is another breach of privilege. But if this be a breach of privilege, it is proper to send for the messenger.

Mr. *Smith.* What I insist upon is, that Guise may inform you what he knows of the warrant.

Sir *John Guise.* All I know is this: I was in the Gallery at Whitehall on Saturday, where I met the messenger, Evans (whom I had the honour to know, having been in his custody,) I told him, 'He would be brought before the house for seizing lord Danby.' He replied, 'He had his justification in his pocket,' and produced the warrant for seizing lord Danby for treasonable practices, signed 'Nottingham'.

Sir *Edw. Seymour.* I hope lord Danby will have a better opinion of me, than that I did reflect upon him. Pray order the messenger to attend you, seeing the noble lord is tender in telling you.

Sir *Henry Goodrick.* If it be treason, your member has no privilege. I would not stifle the thing, but send for the messenger.

Mr. *Garroway.* I would nip this in the bud. The Clause in the last Act of Habeas Corpus excepts members from being attached without acquainting the house. I would not only send for the messenger, but the warrant.

Evans, the Messenger, was ordered to attend the next day with the Warrant.

Debate on Mr. Justice Bedingfield, touching the Dispensing Power.] The house proceeded in the consideration of the first Head of the Bill of Indemnity.

* Eldest son of the marquis of Carmarthen, and called up to the house of lords a few months after, by the title of lord Kiveton. Being brought up to the sea service, in 1702, he was appointed vice-admiral of the red, and in 1712, he succeeded his father as duke of Leeds. He died in 1729, and was great-great-grandfather to the present duke.

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Mr *Garroway*. Bedingfield is dead, and it is said of him that his Advice was extrajudicial. If once Judges shall be summoned to court to give private advice, there is an end of your laws. You cannot disable a dead man from office, but you may set a mark of displeasure upon him, though he be dead.

Mr. *Christy*. If the king demands his opinion, and he gives a dangerous opinion, and no case drawn, it remains a doubt whether he was for the Dispensing Powers, or not.

Mr. *Hawles*. To what purpose shall we name a man that is dead? For except all opinions, and crimes may be more than in court. If there be a doubt in the case, he cannot answer for himself. I would have no question upon him.

The *Speaker*. I must take notice that, in the last Vote, you excepted a dead person; lord chief justice Wright.

Sir *Robert Rich*. It is known how late he came into his place; he could not get much money. He was the worse for his place; his estate is very small, that descends to his posterity, and I would not except him.

Sir *Joseph Tredenham*. He is dead, and the question is, Whether the sour grapes he has eaten have set his son's teeth on edge? He was dead before you made the Resolution, and I question whether properly you can name him.

Mr. *Smith*. I believe, this gentleman had a small estate, and so would the rest have had, if honestly got. You will do the living justice in sparing the dead.

Sir *Henry Goodrick*. This man gave his Opinion at a private conference. His Opinion was not a Judgment in public; let it be affirmed by any gentleman, that he was so far from countenancing the law as to take the Test. I would restrain it to this point, and no more upon this Head.

Mr. *Foley*. All the country know that the Judges gave the Dispensing Power in charge; but because the house is inclined to spare, put the question in general.

Mr. *Hawles*. Before you put a general question, think of another person who told you, 'He had his defence in his pocket.' (Sir R. Sawyer.)

Mr. *Garroway*. You have had a touch by Hawles of the Attorney-General. He can satisfy you positively, whether he had not order to advise, and have the consent of the Judges, to draw Hales's Patent; if not, he is in the case.

Mr. *Hawles*. In the Attainder of Stafford in Hen. 7th's time, the king sent to have the Judges Opinion; but they would not give any Opinion but in court, because they might hear the matter argued by counsel. This is the same thing; and those out of court are as criminal as the court. I wish the gentleman (Sawyer) had his writings here that he told you of, to inform you. It is plain and down-right, that this was to suppress the Protestant Religion. The same person that drew this Patent, gave the Patent to the Popish bookseller to print Popish books, not to exceed 5000 in a year, and in that Patent there are the same Clauses, as in Hales's Case. If Bedingfield be exempted, I am contented; but I would not let the less guilty be exempted, and the more innocent go free.

Sir *Tho. Littleton*. Four are a reasonable number to except: I would not make too many desperate. What are the Solicitor and Attorney? They are but ministerial; the Draught is sent to them *in hæc verba*, and they do but sign it; and where they are but barely ministerial; I would leave them out.

Mr. *Palmes*. When you intended to except but a few, it was that you would make them capital. If you do not lay your hand upon those alive, they may do the same thing again. Will you part with eight Judges in a breath?

Sir *Rob. Cotton*. We are upon the Judges, and I am surprized we should fall from the question upon the Attorney-General, who was but ministerial. He left his place of Attorney-General about prosecuting the Bishops. This will alarm many less criminal, and I am against it.

Sir *Tho. Lee*. There is a collateral question on a member, who seems to be justified or excused, because he was but barely ministerial. I would ask one question for all, but I would not have it hereafter go for a rule, that a ministerial officer may do any thing (indeed all are ministerial.) But, suppose the chancellor is so, who sets the seal to an illegal Patent—Families depending, it may raise many enemies, which is not the end of the Indemnity, but to punish some, and bring others heartily to embrace the government for the grace they receive. Great numbers of incapacities are so many marks of ignominy upon so many families.

Sir *John Guise*. Upon this maxim of policy, I cannot agree to employ those I cannot trust, or put them in a capacity to do more mischief. What will all the people ruined by these men say to us? Pray what have they deserved your favour for? For breaking all your laws? I believe, you will not exclude one of that number from justifying himself. Pray propose every man in particular, and not a general question.

Mr. *Hampden*, jun. I think you cannot take the Indemnity too far. It is our business to heal the nation; so far as is consistent with our safety, pardon all you can; only in one case, you cannot pardon, and that is, not to bring blood upon your posterity. But as for ministerial officers, they are all so. Posterity is innocent, whoever is guilty, and put the general question.

Resolved, "That no more persons be excepted out of the Bill of Indemnity on this Head."

Debate on a Petition being presented from the City of London, unsigned.] June 25. The Commons received a Petition from the Common Council of London, by the Sheriffs.

Sir *Robert Howard*. I never heard of this Petition till now. To one thing I can speak;

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certainly there is no question of the loyalty of the city of London, and their full adherence to the government. They got a Common Hall, and went in entirely to the Change, and defended it with their hands. You have had petitions here without names. You are told the Sheriffs are the proper officers, &c. and that they will sign it, and pray let them sign it.

Sir *Tho. Clarges.* I have known formerly strange Petitions from the City of London. In 1641, to alter your laws on several heads till they took off our heads; but the City is in much better temper. I know not, by what appears, whether the Petition be from the body of the City, and I would not have it read.

Mr. *Howe.* I would keep out that filthy trimming trick, to disoblige our friends, and oblige our enemies. I wonder we should go back to 1641, and not remember three years ago. A great many members have suffered in 1641, as much as Clarges, and I would not do any thing that may seem to disoblige the City.

Col. *Birch.* The time I have sat here, I never knew when a Petition came from public persons, that ever it was signed; but as for the motions to return the Petition back, for the City to call a Common Council to have it signed, I believe it is true, that the country is in many places disaffected to the government; therefore I would not disoblige them: that safety we sit under, by God's blessing, is from them. There wants but one thing; if they could get us loose from the city of London, their work is done, that are disaffected. I would rather receive the petition in the usual manner, but rather than not receive it, I would send it out to be signed.

The Petition was sent out, and signed by the Sheriffs.

Sir *Tho. Lee.* When a member brings a Petition to you from any body, he must open it, with his desire to present it. The person who petitions must come to the bar, and own it.

Sir *Wm. Williams.* If your member was the messenger to receive the paper only, it is no great matter; but if he present it in his place, the matter is, whether you will send it out to be signed, or receive it from the member. If he will, let him move for them to come in. He has taken it out of their hands; he ought to open and move it.

Sir *Christ. Musgrave.* It was the Resolution of the house that this Petition should be signed. I appeal to you, whether it be signed; they only tell you they are directed from the Common Council to present the Petition to you.

Sir *Robert Clayton.* If that gentleman did understand the constitution of that body, he would know that the common seal is never set, but only signed 'Wagstaffe.' You have the Petition from the hands of the Sheriffs, as good vouchers as you can have from that court.

Sir *Patience Ward.* The practice of courts makes the best interpretation of things. The city is a great body, and cannot sign the Petition, but you have the Sheriffs who will sign it. I do avow it, and so will other members, if required

Mr. *Hawles.* I understood, that, when you sent it out to be signed by the Sheriffs, it should be in no other manner than it is, 'That they delivered it by command of the Common-Hall.' Perhaps they were told it would be a criminal matter to come with a multitude of hands. I think it ought to be read.

Sir *Tho. Clarges.* By the rules of the house you ought not to read the Petition. Forms preserve essences, and they must be observed. Any Order of Court must be signed, and approved by the court sitting, and the order registered. But they say, 'No, not that; but in a tumultuary way'—when it comes to be an act of theirs, they will not do it. This is not such a signing as the gravity of this house expects. It does not shew that the Sheriffs and Common Serjeant approve it, and for these reasons I must give my negative.

Sir *Tho. Lee.* I hope reading the Petition depends upon the nature of the Petition, and not the form of delivering it. The use of signing the Petition is, that there be no scandalous matter in it, and that they do avow it, and are accountable to you for their discretion in the matter of it. I would read it.

Sir *Wm. Williams.* I do agree with Lee, if we could pass to the matter without the form. If it have not that form requisite, you never look into the matter. We are upon the outside of the Petition, on the face of it; the matter you cannot look into. If it be universally true that a petition ought to have hands, or seals, to it, you cannot receive it, and you have done wrong to so many persons and corporations you have received petitions from, without hands, or seals. Why do you require hands to petitions? It is that the petitioners may be answerable for the contents. Those say, 'They have order from the Common Council to deliver it to you.' You must have the Petition owned, not for form sake, but a necessary rule. Suppose there is Treason in it, and no person to answer for that Treason, that libel. In the name of the Speaker is in the name of the house; I know it by experience in my prosecution. They are a body without a head, a body without a hand, when not signed. To read it without a hand,—I am against it. Let it be signed as it is usual. It is the sanction of the Petition, and without a hand to it, I shall never give my consent for it to be read.

Mr. *Boscawen.* I appeal to gentlemen, in times past, whether a Petition from the City, signed by a public officer, was not taken to be from the city? The sheriffs and common serjeant (who is the proper officer) who are members of the Common Hall, are included as part of that body. You must put it upon that question, and *valeat quantum valere potest.* If you refuse that, you refuse what was never done to the city.

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Mr. *Hampden*, sen. The only question now is, Whether they have so signed the Petition as to prepare you for reading it; and they have not signed it as petitioners, but avow it from the Common Hall. They were present at the framing the Petition, and when it was agreed. If gentlemen have no mind to hear reason, (Upon some noise made) you may put the question presently. What farther confirmation would you have? Does it not answer the end of all signing petitions? 'but,' says the gentleman, 'the Sheriffs, &c. will not sign it as petitioners, but as ministers of the Common Hall;' and, suppose the case should be that they do not consent, you are obliged to receive it; it is no fiction, no piece of poetry, but authentic. If because the Sheriffs do not agree to sign it, and therefore you will not receive it, you put the negative upon the hall by the sheriffs.

The *Speaker*. They that are against receiving a Petition from the Commons ought to go out, because it is their right to petition.

Sir *Christ. Musgrave*. Till the Petition is opened, the house is not possessed of the matter, and those for it ought to go out.

The *Speaker*. I am satisfied in my judgment that the Noes ought to go out.

So they did: and the Petition was ordered to be read, 174 to 147.

Petition from the Common Council of London for taking off the Tests.] The petition was then read, setting forth, "That the body representative of the city of London, in the Common Hall assembled for the choice of sheriffs, cannot but with all thankfulness acknowledge, upon this occasion, the infinite mercy of Almighty God in his gifts of heroic courage and excellent conduct to his now majesty, and wisdom and counsel to your honours; whereby the petitioners right to elect their chief magistrates freely and quietly hath been wonderfully preserved, all their liberties, and the very being of justice, peace, and prosperity, in the city, depending thereupon. That, by the gracious influence of Divine Providence, this city is become very powerful, and a strong bulwark for the defence of the Protestant Interest and the security and quiet of his majesty and the kingdom, if an universal amity and unity be preserved amongst the protestant citizens, who do equally and perfectly renounce and detest all communion whatsoever with the Papacy and the Roman Church, and do adhere only to the authority of the Holy Scriptures of the Old and New Testament: the principal danger, impending over our English Church and State, being, from the politic popish designs, to divide the protestants, as they did heretofore in the beginning of the Reformation; whereby they first subdued and destroyed the Calvinists; and then, with the like bloodthirsty cruelty, suppressed the Lutherans, whom they had deluded to help them in the destruction of their Protestant brethren: and praying the ancient right of the city, freely to elect their Sheriffs and other magistrates, may be vindicated from all invasions and questions concerning it: and for that purpose, that the Bill for restoring Corporations to their rights and privileges may be perfected, as the weighty affairs of the house will permit. And, in regard of the present dangerous Conspiracy of the Papists and their accomplices against the Protestant Religion, our king, and government; and the Invasion threatened by the French king, whereby the united force of all the Protestants is apparently necessary; they pray, that our most gracious king may be freed from all restraints of using his Protestant subjects indifferently, in his military or civil services, according to their several qualities and abilities, wherewith God Almighty, nature, education, and experience, have endowed them, to that very end, that they might be useful to their king and country, and therein serve God in their generation."

Debate on the Impeachment of Sir Adam Blair, &c.] June 26. The Impeachment of sir Adam Blair, &c. was read.

Sir *Tho. Clarges*. This Impeachment being matter of blood, I would have it debated, Whether the matter contained in it be Treason? In lord Clarendon's Case, it was said, there was never any precedent from Henry 4; nor by the words of the statute 25 Edw. 3, and I believe no precedent since that time. Fitzharris was impeached, and that was for conspiring the death of the king. We are the grand inquest of England, and I hope I shall never be wanting in my duty. I would know, whether, if an indictment be brought to a grand jury, the question ever was, 'Agree, agree,' [some calling out so] enquire whether the Indictment be according to law. I desire so much satisfaction as a jury would have. A consultation held, and no war levied, as in lord Russel's case, is no Treason. If the king's counsel will declare it to be Treason, I shall agree; if not, I doubt it.

Mr. *Howe*. Though we have no power to make treason, I hope we shall not have power to connive at it.

Sir *Tho. Clarges*. This is an extraordinary thing for a gentleman to say, 'that when a man speaks his mind here, he connives at treason.' Lord St. John, in his Argument against lord Strafford, says, 'that judgment cannot be exercised but by Bill.'

Sir *Tho. Lee*. I confess, that I have not read that Argument this long time, therefore I will not controvert it, but I never heard that a parliament could not judge; but it is a power to be kept solely in parliament, lest it should be an example to Westminster-hall; and therefore judged by Bill of Attainder. Before Edw. 3rd's time, Treason was dressed up as in the late Informations. If men act such things, it is destructive to the whole, and this was put into the statute of Edw. 3, by way of caution, like firing of a beacon. You send not up the Impeachment till the house dares venture their credit upon making it good, and the commons ought to be satisfied that the evidence will hold out with the lords as well as here; else

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the evidence should be punished. It is a mischievous practice, when the courts of justice have been exorbitant, and would be safe in so doing. This Declaration that sir Adam Blair has published, declares another king, and dethrones this. If this be a general opinion, I think we ought not to carry up this Impeachment; if it be a crime (which every body thinks) it ought to be carried up to the lords, that it may be judged treason.

Sir *Tho. Clarges.* Lee was of opinion, in lord Clarendon's Impeachment, 'That there was no common law treason;' upon debate, that Impeachment was not carried up till it was clear, that the Article was Treason. Before the statute 25 Edw. 3, Treason was so ubiquitary, that it was treason, to assert treason, with the proviso relating to the judges in doubtful cases, &c. After that act, Treason was bandied more than before. In R. 2nd's time, sir Thomas Hawksley was adjudged for making a motion in parliament, insomuch that Hen. 4 was petitioned by the lords and commons, 'That Treason might not be so hackneyed about;' and in queen Mary's time it was repealed. I dare put my credit upon it, there has been no Judgment of Treason from H. 3rd's time; and lord Coke is express, in his chapter of Treason, 'That the statute Edw. 3. was taken away by the statute of queen Mary.' Lord chief justice Vaughan used this argument, 'That there was no common law treason, no constructive treason.' Lord Vaughan, (now lord Carberry,) brought in an Article in Clarendon's Impeachment of his 'corresponding with the king's enemies, and betraying his secret counsels *,' which was special matter; and then the Article was voted Treason.

Sir *Tho. Lee.* My friendship to lord Clarendon induced me no farther, than that I was against the Address for removal of him from the king; but I concurred with the house, and went through every vote to make impeachments easy here. At that time the king was angry with Clarendon, and took the seal from him, that he might go out of town into the country. The duke of York did support Clarendon, who at that time went to church, and was reputed a Protestant; at the same time, all the lawyers, raised by Clarendon, followed him, and a gentleman then said (Waller) 'Touch a lawyer, and all the lawyers will squeak.' Vaughan (who was quickly after made Chief Justice) argued as strongly against the Impeachment, as he had done before for it, but told you he had changed his opinion. There are two ways of delivering in an Impeachment; one at the lords bar, another at a conference. The Impeachment of lord Mordaunt was delivered at a conference, by Mr. Seymour †. I leave the house to consider, whether you will deliver this Impeachment at a conference.

Col. *Birch.* I have sat here long, and seen many things done. It is usual that the most able lawyers go up with an Impeachment to inforce it. I see in my eye a person of great worth, though aged (serjeant Maynard) I would have him go up with it.

Serjeant *Maynard.* Pray put not that upon me, who know nothing of the business. Pray let Birch go, who knows the whole business.

Col. *Birch.* I never refused the service of the house. The reason why I moved for serjeant Maynard was, because never any man did argue better in the Impeachment of lord Strafford. Clipping a shilling is treason, and is not subverting the government? I would have the person to carry it up, who is the fittest to carry it on.—The Impeachment was ordered to be carried up to the lords by col. Birch.

When the above Articles were carried up to the lords, they appointed a Committee, to inspect the Journals, what hath been the method and proceedings upon Impeachments from the house of commons. This committee reported on the 27th, "That they have considered the Journals as far as the Impeachment of the first duke of Bucks in 1626; and did not examine further off, because they found the entries still shorter the further they went. Their lordships do not find, as far as they went, any particular account touching the method of receiving Impeachments. They find, sometimes, Impeachments have been delivered at conferences, and sometimes with and sometimes without Articles; but when they have been delivered at the bar of the house, it hath always been by way of message from the house of commons: but it does not appear whether the lords on the woolsack were sitting while the Articles were reading; nor doth it appear that any difference hath been made between the receiving a Message where an Impeachment hath been brought up, and any other Message."—On the 29th of June, the house of lords appointed a committee to inspect the Journals, as to precedents of Impeachments, and the grounds and reasons of those precedents. On the 2d of July, the earl of Rochester reported what precedents the committee had found in the Journals, and amongst the Records of the Tower. After considering this report, and much debate, the question being put, "Whether this house will proceed upon the Impeachment brought from the house of commons against these persons?" it was resolved in the affirmative.—The persons impeached were then ordered to be brought to the bar, in safe custody, by the keeper of Newgate, or such of them as are in his custody, on the 4th of July, to hear the Articles read. On the 4th of July, some of them are brought; the Articles are read; they are allowed copies and counsel; and then are ordered to stand committed to Newgate, in order to take their trials.—On the 12th of July they put in their Answers in person at the bar; which were carried down to the commons on the 13th and 23d of July. *

* See vol. iv. p. 385. † Vol. iv. p. 347.

* It does not appear that the Commons

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Report of the Warrant against the Earl of Danby.] June 28. Sir Thomas Clarges reported, from the earl of Nottingham, an account of the Warrant issued out against the earl of Danby, viz. 'That on Friday last, the earl of Nottingham was informed, that lord Danby had fitted out a small vessel with arms, with some design unknown to his relations, and a wherry to carry him away; that he had this information from the lord president; that he had not time to put it in writing, nor was it given upon oath, but he wrote it, upon memory, for his own satisfaction. Upon enquiry of the reasons, &c. from lord Danby, he said, 'That the vessel was his own yacht, that he had fitted it with the same arms it had, and no more than before, to make use of for his diversion; and that he had no design in the least criminal.' 'This,' lord Nottingham said, 'he found so ingenuous an Answer, that, considering his behaviour in the change, in contributing to the present establishment, he released my lord without bail, but with promise, upon his word and honour, to appear upon summons.'

Debate thereon.] Mr. *Howe.* I am willing to go on in the Act of Oblivion, but I am concerned that this proceeding sticks not only on the people, but that their representatives may be in danger. But if, by intreaty, a man may be taken up in this manner, every mother's son may be taken up. I hope you will order the matter so, that you may justify your proceedings.

Mr. *Bickerstaffe.* This was in the afternoon, and the house not sitting; upon complaint to the president of the council, he could not do less.

Sir *Robert Rich.* I suppose that gentleman was not here, when the messenger gave an account of it. He said, 'He had served the warrant, and whispered lord Danby in the ear.'

Sir *John Thompson.* You may remember, Evans, the messenger, acquainted the house, 'That lord Nottingham granted the warrant without oath.' I have nothing to say to lord Carmarthen, but one member is injured, and I know not how to justify the thing. If this warrant was granted as a privy-counsellor, or a justice of peace, I know no law for it; for if six privy-counsellors do it, and here is but one, it is worthy your consideration. If as a justice of peace, he cannot take up a man without oath. If one counsellor shall whisper to another, and imprison a man, I know not who can be safe. If we take up this now, at the rate elections go at, and the determination in sir Samuel Barnardiston's Case, they may have a parliament as they please. I know not but that it may be in the power of one great man to make a parliament. I hope the house will be jealous of their right.

Sir *Robert Cotton.* I take it, any member of the house may be arrested for treason, or felony, without leave of the house, but he cannot be detained without leave of the house. But the question is then, Whether there was an oath given? In this case, I think it was necessary. I think the power of the Habeas Corpus late Act lays that aside. But whether one privy-counsellor, without six, can take up a man, without oath, in matters of felony, or treason, that is the question.

Sir *Francis Blake.* I should be loth to go into Northumberland without this being decided; there would be no safety for me when I am at home.

Sir *John Guise.* I am much concerned that this, by a general silence, should be passed over. The Breach of Privilege seems plain; is it not a thing to be mended? If this be prejudicial, and made only a jest, to pass it thus over, if this be done to one, it may to another. Whether if you complain to the other house, of this breach of privilege, it may not be prejudicial? I would pass it over rather than give interruption to the great business, but so that neither I nor any man else be taken up.

Mr. *Garroway.* I cannot see but that this is a breach of privilege. I would not drive it high, but declare my mind. What you will do in it is another thing, but I hope you will vote it a breach of privilege, though it be no commitment, the only taking the member up without oath. I would go as softly as we can, but I know not how to proceed upon lord Nottingham, without coming to the lords. I would vote it only a Breach of Privilege, and address the king to take order that the like be not done for the future.

Mr. *Howe.* I cannot agree to this motion. Have we not declared our right? What are we the better? In two months, this man may go round the house, thus. I hope, as Englishmen, we shall not forget our rights; and any man that will do this is not fit to be employed in the government.

Sir *Christ. Musgrave.* I think this is a breach of privilege. I suppose it is not the intention of the house (since the Act of Habeas Corpus requires six privy-counsellors to sign the warrant,) to approve it in one only. If that be not our privilege, I know of none that we have. I would not have it go off, that he could warrant the thing. I think we ought to vote it a breach of privilege, and address the king that nothing of this kind be done for the future.

Col. *Birch.* If this had been done by a person that had not very well understood privilege of parliament, I would be for it as proposed; but the thing apparent in the warrant is called 'treasonable practices,' and it was evident to him before he signed the warrant. If there be any thing you do not see, pray let us feel it, if you will examine it to the bottom. I am not so much lawyer as to distinguish 'treason,' and 'treasonable practices.' See

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ever made any replication to these Answers. On the 31st of March 1690, in a subsequent parliament, sir Adam Blair petitioned the lords that he might be bailed, which was consented to.

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the bottom of all, and then take your resolution.

Mr. *Charles Montagu* *. There is one thing I cannot solve. The Paper that lord Nottingham gives in says, 'The Information was given in on Friday,' and the warrant bears date on Thursday.

Sir *Tho. Clarges.* That may be a mistake. He said, 'The warrant was for treasonable practices,' which is bailable. For treason and felony plainly expressed, if an ordinary justice of peace may bail, this may be so too. Pray vote it a Breach of Privilege, and address the king to signify your opinion of it, that it may not be so for the future.

Sir *Rowland Gwynn.* I am willing you should put the question, but if you say no more than is proposed, I am against it. I think my lord of Nottingham's answers are not fair. I know not what to make of it.

Serjeant *Maynard.* As this case stands, a member is imprisoned, and a warrant is made to take him for treasonable practices; if we take notice of it, and let a member sit amongst us so accused, we cannot well answer that. We are to vote it a breach of privilege, and then enquire what those treasonable practices are. At this rate, we may all be imprisoned, and whipped to our lives end. Vote it a breach of privilege, and sit not mute upon so plain a breach.

Sir *Henry Goodrick.* I look upon this as an invasion of privilege, and worthy your cognisance. I hear it moved to refer it to the committee of privileges to enquire into it, but I think that not fit. From whom will you have informations? Will you send for lords Nottingham and Carmarthen? I would have a good correspondence with the lords; the peers will not come to you, and there will be a rupture; but if you will come up to the motion, for your honour and ease, vote the breach of privilege, and then address the king.

Mr. *Garroway.* I shall speak to your question. It does not appear by that Answer, which lord Nottingham gave, that there was sufficient cause to take lord Danby into custody, and therefore vote it illegal, and a breach of privilege.

Col. *Birch.* I desire to speak a word to the question. I have told you that I thought this a strange thing, and it was as strangely done for a person of his understanding and honour. To me it appears more; when lord Danby to this house is upon his parole to appear when summoned, and we all know he is in custody by that; which makes me think, there is more in it than at the present appears.

Mr. *Harbord.* I would know what you aim at, that I may see whether you are like to have good success. I take this imprisonment of lord Danby to be occasioned by his father. I would do as I would be done by. If a child do against his father's desires, a parent would prevent it. Here comes the marquis of Carmarthen to lord Nottingham, and tells him his son will go to sea, in a hostile manner, without a commission, and he is a pirate by doing so, and must die for it. He applies to lord Nottingham; but that is not a good way; he should have applied to the lords commissioners of the Admiralty, and has not done as he should, but it is a hard case to lay the stress upon lord Nottingham; and if I had a son that had done as lord Danby, I would have done so; and therefore, as Garroway proposed, the complaint against lord Danby is not sufficient to put him in custody. I have no obligation to lord Nottingham: I speak my mind, and I care not two-pence for those who interrupt me, [something in passion] be they who they will. I have drawn my sword for the king, and I care not for the censure of any man. I would leave lord Nottingham out of the question.

Sir *John Thompson.* He that touches the parliament, touches the vital part of the nation. The fault is the greater; for the man is not fit to be secretary that carries about him the legislative authority to commit in this manner. The messenger had been clapped up, if he had not done it; it was the secretary did it. Put the question thus, 'That granting the Warrant without notice, &c. was a Breach of Privilege."

Mr. *Howe.* I am satisfied of Harbord's good intentions; but if I had a child, I would have a French Protestant to govern him, and not a secretary of state. We are told of your member's pirating, but what reason for his taking up, I know not; but pray right yourselves, and put the question.

Sir *Joseph Tredenham.* I desire, that my son should be tutored by an Englishman, and not by a French Protestant. I am entirely

* "A young man, Mr. Montagu, a younger branch of the earl of Manchester's family, began to make a great figure in the house of commons. He was a Commissioner of the Treasury, and soon after made Chancellor of the Exchequer. He had great vivacity and clearness both of thought and expression: his spirit was at first turned to wit and poetry, which he continued still to encourage in others, when he applied himself to more important business. In the parliament of 1700, that the most eminent man of the Whigs might not oppose them, they got him to be made a baron by the title of Halifax, which was sunk by the death of that marquis without issue male. In 1701, (being then Auditor of the Exchequer) he was impeached by the commons, but acquitted by the lords. In 1707, he had a great share in the Union, and having proposed the Bill for settling the Succession in the House of Hanover, he was appointed by her majesty to carry over that Act to the elector. He continued in the queen's favour till the change of the ministry in 1710. On the king's accession he was appointed first lord of the Treasury, and soon after was created earl of Halifax. He died without issue in 1715, aged 54." Burnet.

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for the question proposed. If it be a Breach, it ought to be so tender that hereafter it may not be a precedent for the loss of privilege; for that reason, I would not pass it over in silence; the consequence may be fatal. I was with lord Nottingham, but the question is, Whether his Answer was a ground to attach your member? But there is a distinction between those that have the honour to sit here, and a private person; I see him no otherwise criminal for this warrant, but as lord Danby is a member. But as for the kindness of the father to his son, the complaint ought to have been made unto you. Some gentlemen are for a committee to enquire into it, but if you are not at the bottom already, I would have a committee. The present business is to vindicate your own privileges. Therefore I am for such a question.

Sir *John Guise.* I am sorry we should have comparisons betwixt father and son, to our detriment. Something of piracy was spoken under me, &c. but I hope that is but a conjecture. But if the vessel was armed, nobody knew who it was for, or who against. I would name the person that granted the warrant, and refer the rest to a committee.

Sir *Henry Goodrick.* It is certain that lord Danby made his application to the duke of Schomberg, and the office of Ordnance, and had ammunition and provision to scour upon privateers; it is a little vessel, and can fight or not fight as he will; the general gave directions for it, and he had arms, &c. accordingly. I have not seen the marquis, but his mother was alarmed, and was not willing the whole stay of their family should run hazard with privateers, under a pretence to scour about the river. But such imminent hazard he was like to run of his life, that they were resolved to take all means to stop him. I hope this will satisfy the house, and not rest upon him as any scandal. I aver this to be matter of fact, and I would only vote this to be a Breach of Privilege, without naming lord Nottingham. Perhaps he was led by this inducement.

Sir *Christ. Musgrave.* I think Goodrick spoke against the addition of the question naming lord Nottingham, because it appears on your Journal the warrant was entered there; and therefore no reason for the addition, being now no occasion. The thing is to assert your privileges and rights, and the question will run well without the addition.

Sir *Robert Howard.* The thing is very unhappy, and much mistaken in the manner of proceeding; but natural affections must not be used to try tricks with the government. Natural affection may be showed, and stop there. Suppose lord Nottingham should tell you he did according to law, is not that a sufficient excuse? Lord Nottingham, upon information of a privy counsellor, granted the warrant, but still the fact is done, and you vote it a breach of privilege, and that is all.

Mr. *Smith.* Howard says, 'It will justify lord Nottingham, because he had his information from a privy-counsellor.' I would be satisfied whether a privy counsellor must not give information upon oath, as well as another?

Sir *Walter Yonge.* I am very indifferent whether you name lord Nottingham in the question, but assert the crime. There is no fault in the messenger; he knew not of it; but I am sure lord Nottingham must know of it. Granting the warrant is a thing that must not be passed by so hastily. You will find few messengers that will deny such execution of a warrant. Pray put it, 'That the granting such a Warrant is a Breach of Privilege.'

The *Speaker.* The messenger undoubtedly breaks your privilege, as well as the bailiff that arrests your member.

Mr. *Hawles.* The bailiff, and he that sues out the writ against a member, are upon record, and if you only call upon the person who does officiate, your privilege will be quickly lost. Whoever issues out the warrant is more, or equally, guilty than he that executes it.

Col. *Birch.* Let it appear on your Books that you judge prudently. See the date of the warrant.

Sir *Joseph Tredenham.* At the same time that lord Nottingham received the information, he made the warrant and put it in writing for his memory. I never knew it a breach of privilege, if a writ was never executed. In some cases, the statute of non-claim may be pleaded; if the writ be not taken out in legal time, it is excluded. If it be necessary, several precedents may be produced, not to hinder a man from a just debt. But prosecution of a writ will hinder a member from his attendance; but if it be not served, it is no breach of privilege, because it does not hinder a member's attendance.

Resolved, "That the granting a Warrant to arrest the earl of Danby, a member of this house, and the taking him into custody by virtue of that Warrant, is a Breach of Privilege of this house."

The King's quickening Speech to both Houses.] This day his majesty made the following Speech to both houses:

"My lords and gentlemen; The time of the year being so far advanced, and there being several Acts yet to be passed for the safety and settlement of the nation, I desire you would expedite them as soon as you can, it being necessary there should shortly be a recess, both that I may be at liberty to pursue the business of Ireland with all possible vigour, and that the members of both houses may repair to their several counties to secure the peace, and to put the Militia into some better posture. I am very sensible of the zeal and good affection which you, Gentlemen of the House of Commons, have shewed to the public in giving those Supplies you have done already; and I do not doubt, but, from the same inducements, you will be ready to give more, as the occasions require; which I must let you know,

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will be sooner than perhaps you may expect, because the necessary expence of this year will much exceed the sums you have provided for it. And that you may make the truer Judgment in that matter, I am very willing you should see how all the Moneys have been hitherto laid out: And to that end, I have commanded those Accounts to be speedily brought to you; by which you will see how very little of the Revenue has been applied to any other use than that of the Navy and the land-forces. I must remind you of making an effectual and timely provision of the Money for the States of Holland; and I doubt not but you will take care to see a fitting Revenue settled for myself.—My Lords and Gentlemen; I will add no more, but to recommend earnestly to you to avoid all occasions of dispute or delay, at a time that requires union and vigour in your counsels, upon which the preservation of all that is dear to us doth so much depend: and I do promise that nothing shall ever be wanting, on my part, which may contribute towards it."

Debate in the Commons on the King's Speech.] Sir *Robert Howard.* The king is pleased to leave the matter to us; and, in the first place, let us return Thanks to the king, &c. and go into a committee to consider the Speech, paragraph by paragraph.

Sir *Tho. Clarges.* We cannot be able, before the recess, to make a judgment of the arrears of the Money; by winter we shall have time to make recompence for what falls short. Till then we cannot compute what that will be. The Poll is contingent with the other taxes; till then we are not able to give the king any Answer, and then we may make up what is deficient.

Mr. *Howe.* I think there is another business upon our hands, as well as the Indemnity. We are not yet off from lord Danby's Breach of Privilege: I would neither frighten the messenger, nor any body else in the king's service, but if you will pass this over, I will say no more.

Col. *Birch.* We all desire a recess, and to me seem to do a quite contrary thing. The Bill of Oblivion has held us a Month, and, for ought I know, we may sit till Michaelmas, and not do it. This is a fine thing to keep you from all business. I would dispatch all bills relating to Money, and when you have the Account, you will be satisfied in a day or two. 'Tis true some things are contingent in the Poll-Money. I remind you that Money stands voted in the house for the Dutch. Their ships came heartily to our assistance; therefore take the king's Speech into consideration on Monday.

Sir *John Thompson.* Let us do our country justice, and the Dutch justice; they came for their own preservation, as well as ours, against the great preparation of the French king.

Sir *Christ. Musgrave.* The Dutch have no great war upon their hands now, but we know who has; we have the French and Ireland. We shall comply amply with the king, if we go upon what is before us; and to-morrow we may go upon the Excise. If we go on upon the Accounts, we shall have no hopes of a recess; therefore go to-morrow upon the Excise.

Mr. *Howe.* I am willing to go as soon as possible upon Money. I am sensible of the service the Dutch have done; many an honourable gentleman has done you great service, and yet brings you no Bills of Account for it. I hope the king will give us satisfaction in the Irish Affairs, and save you the labour of particular Accounts. If the Dutch can fit out more ships than they have already, they may do it in Money. Upon the whole, I am ready to give money when it is requisite; but you may see the Accounts mentioned.

Sir *Tho. Clarges.* In our Aids to the king, we have not limited one thing nor another. We hoped that 200,000*l.* had been paid off of what we had granted, to the Dutch, and the rest supplied. I cannot see how more money can be expended before we meet again; and in February next, is the last payment of the Subsidy, and we may consider betwixt this and then. Here in the Poll-Money and the Revenue, altogether, are three millions betwixt this and February. There is no absolute need of falling upon the Revenue, to settle it; till the Book of Rates be perfected, we cannot settle the Revenue. Here is the Excise—And I know not how to put the wheels faster upon a run than they are.

Resolved nem. con, "That the humble Thanks of this house be returned to his majesty, for his gracious Speech."

Mr. Hampden acquainted the house, "That he, with others of his majesty's privy-council, had, according to the order of the house, attended his majesty with their Address, That the considerable Papists or reputed Papists of this kingdom may be forthwith taken into custody, and the arms and horses of all Papists and reputed Papists be searched for and seized: and that his majesty was pleased to answer, That he would use all means he could, to secure this kingdom from any danger that might arise from Papists or reputed Papists, or any other that shall disturb the peace of the Government."

Sir Henry Capel acquainted the house, "That he, with others of his majesty's privy-council, had, according to the order of the house, attended his majesty with their Address of Thanks for his gracious communicating to this house divers Letters and other Papers, which were intercepted coming from Ireland: and that his majesty was pleased to say, he was glad of any thing he did, that gave satisfaction to this house."

Sir Henry Capel also acquainted the house, "That he, with others of his majesty's privy-council, had, according to the order of the house, attended his majesty with their Address, That his majesty would be pleased to give leave, that some members of this house may inspect the Books of the Privy-Council, and

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the Books of the Irish Committee, and take copies of all Orders and Instructions therein relating to the Irish Affair: and that his majesty took it into his hand, and said, He had likewise an Address from the lords to that purpose, which he had given no answer to; and that thereupon he the said sir Henry Capel supposed he would consider of both."

Further Debate on the Heads of Exceptions in the Bill of Indemnity] July 1. The house proceeded on the further consideration of the Heads of Exceptions in the Bill of Indemnity. The prosecution of the Bishops was moved to be another Head.

Sir *Leveson Gower.* I have spoken with several of the Bishops about their Prosecution. They are better Christians than to desire any body should be prosecuted upon their account. I think therefore the house may pass upon some other Head.

On the Commission for Ecclesiastical Causes.

Mr. *Garroway.* I think, if you proceed upon the debate of this Head, that it will puzzle the lawyers to make it capital. Though the High-Commission Court is down by act of parliament, yet the king has a great power in ecclesiastical affairs. As for Mr. Johnson, I would make him satisfaction for his sufferings*; and then the question will be, Whether you will proceed any further upon this article?

Sir *R. Temple.* The Bishops were proceeded against for addressing the king about the Declaration, that cut up all your laws by the roots. I take this occasion to venture a motion, to except some persons. If you go head by head, you will nominate so many, that you will alarm the whole nation, and never be at an end, and be much entangled in the business.

Col. *Austen.* I am for naming mighty members, but you do not justice to the nation, nor is the cry of blood answered, if you do not your duty.

Mr. *Hawles.* I am for excepting few as to life, suppose four or two. You know a dead man for one, one in the prison for another: some are at liberty, and the most guilty persons escape. If the ministerial persons be excepted, and escape, if that be so, do as you please, and except as few as you please.

Mr. *Howe.* I think what you are now doing is in consideration of what has been done before, so as to secure you for the future. Some have gone so far as to justify king James in what he has done; if you exempt those, you arraign what you have done already. The first rise and spring of the Bill of Exclusion was the Popish Plot, and for maintaining Popery you rejected him out of the kingdom. Kings do no wrong, but if ministers do no wrong—Therefore for our own justification, either yield that king James is wrongfully put out of his kingdom;—if you proceed not against his counsellors, we must conclude either that we have done wrong, or that king James has done none at all.

Mr. *Harbord.* I am for catching the great fishes; to catch little rogues is not worth your while. I would not fall into this same misfortune by not making examples. This Ecclesiastical Court was not managed by Jenner; he is a little fellow. But for a secretary of state (lord Sunderland) to renounce his God, and act in that commission, you had as good give up all as not to question him. Mr. Johnson's wounds smart upon us. If he escape thus, what security can we have? I am not for sweeping all the Commissioners, but go on upon this Head, and make some examples.

Mr. *Arnold.* I wonder that those who serve for the university of Oxford, are no more concerned in this Commission of Magdalen College.

Sir *Wm. Williams.* Consider this Commission in its constitution. Nothing in itself, these seven or eight years, has been so pernicious, that ecclesiastics should be constituted, not only to suspend this or that bishop, but to unbishop and unecclesiastic them! Things grow on by steps and degrees; when they found that the bishops and temporal peers came into the commission, they would be *felo de se.* It is fit to make an example of these persons, who have violated their own function and their own law. Make one example of him, as you have done of the Judges.

Mr. *Coningsby.* This is lumping indeed. If we must lump, I would do it in mercy; do in this as in the other Heads. Here are but ten, and as you have exempted but two out of the former, pray exempt but two out of this.

Mr. *Smith.* None of these acted according to their commissions, but set up a law-making power. This did subvert both church and state; but to say, that some favoured the Protestants—but I would have it showed, what Protestants, unless their private friends, to excuse them. I would favour as much as any man; some that have gone farthest, as those in the first and second Commission, I would lay some punishment on lightly, but remark those that acted in the latter; I would not so much as exempt the clerks. If I make enemies of them, I care not. I am not for being an enemy to my country. I would put some mark upon them all.

Mr. *Wynn.* Will you except one (lord Rochester) who gave up his white staff, and would act no farther when he saw how things tended?

Mr. *Howe.* This power was certainly unlawful. In those who modestly withdrew from the Commission, it shows repentance. Those who are dead, are past your justice. If you please, let all their names be read, and then distinguish them.

Major *Wildman.* I must speak against my

*"Mr. Samuel Johnson, (who had been chaplain to lord Russel) setting forth 'An humble and hearty Address to all the English Protestants in the army, &c.' was prosecuted for it in the King's Bench, and being convicted, was sentenced to stand in the pillory three times, and to be whipped from Newgate to Tyburn, which no martyr ever did suffer with more fortitude than he." Ralph.

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own nature and disposition now. It is natural to spare all, but of necessity we must vindicate our country's liberties. I have sat here with astonishment, to hear excuses for any that sat in that Commission. It was called 'the Ecclesiastical Commission,' but it laid the axe to the root of all our properties, goods, and land in England. In one clause of the last Commission they were more modest than in the first. It gave a power to make all the noblemen and gentlemen in England dance attendance upon them, and power to examine every man's conscience concerning his whole life against God or man; upon pain of excommunication they must answer every question, or else the Chancellor was ready to grant out the writ *De excommunicatio capiendo*; whatever the crime was, though against himself. This gave a liberty to all informers; they might give what costs and damages they pleased. As the Commission gave power of all persons, so also of colleges and cathedrals, to dispose of all the lands in England of all bodies corporate at their discretion, however confirmed by acts of parliament. They had power to cause Mass to be said in churches; they might turn out all incumbents, and take their lands for popish uses. By this it is most apparent that king James broke the original Contract with the people, and violated all the laws that were made to protect our liberty and property. They executed these powers in part; they caused all colleges to bring in their statutes. In Sidney College, the founders took especial care, and did abhor the errors of Popery, and to have free elections in the college; they called for the Statute Book, and razed those out for ever, and, when they could not get mass to be said in the college, they set it up in the porter's lodge, that at length it might come into the college. Never was there such a thing done in the face of the sun, to bring in popery, and to discourage the Protestant religion, giving costs and damages, and all mens estates at their will. The duke of Norfolk was not excepted; he had a writ *De excommunicatio capiendo* issued against him, if he did not obey them, in an order about his lady. All was at their will. If you excuse these men, except all the rest without ceremony. Our ancestors, when they came to reform the government in Henry 8th's time, made examples of Empson and Dudley, who cunningly got a patent to punish men in a summary way, without juries. Empson and Dudley were attainted for Treason, for so the record is entered in the parliament-bill. Their decree was without any remedy; by that cursed *Non obstante* to the laws of England, all was laid level before these commissioners. As that prosecution of Empson and Dudley,* who were the instruments of the ill government, cost them their lives, so severe was their punishment. But when queen Elizabeth gave but a poor patent for a place, and sent it to the Judges to pass it, they said they durst not; examples were fresh of those who advised against the laws, although the queen commanded it too in person. They saw the shipwreck, where our ancestors had set up buoys, and it was avoided. You need look no farther to find their proceedings than into their own books, how they unfunctioned the Clergy. I leave them to your justice. All they have done has been proved before you.

Sir *John Guise.* I should not pretend to exaggerate this Commission, but am of opinion that there can be no degrees in it; but I observe one thing in it, that it principally arises from the privy-council, who first ordered it, and then executed it themselves. I speak plainly, I think it of so high a nature, that whoever does own such a commission is never fit to serve the nation in any public capacity. I know not their names, but begin first with the privy counsellors, and their actions; that if any be employed now, to take care they shall never be for the future.

Mr. *Ettrick.* Being named of this Commission, and acting upon it, are very different. I am for making as many friends as we can; so many as you except, so many enemies you make to the government. To take all who were named in the Commission, you must take the archbishop of Canterbury*. Many that were not versed in law knew not the saving in taking away the High Commission Court. When they saw it gone, they could not apprehend the consequence. Those who acted upon the third, fourth, and fifth Commission plainly acted against the laws. You did take several commissions, and read several names in them; all of them did not act in it. I would not put blots upon persons who have been and may be useful to you. Lord Rochester quitted the staff purely because he would not go on in the popish interest. It is plain that this leaping them takes him in. Therefore I would have them that acted in the Commission, excepted by name.

Major *Wildman.* I did not, in any thing I said, reflect on the abp. of Canterbury. I said only, 'He was named in the Commission;' but he never sat.

On lord chancellor Jeffreys.

Sir *Wm. Williams.* No man deserves to be excepted more than he; but will you begin with a dead person?—He was excepted.

On the earl of Rochester.

Sir *Tho. Mompesson.* Pray put no question upon him; he was left out of three commissions.

* See vol. i. p. 477.

* "Sancroft lay silent at Lambeth. He seemed zealous against popery, in private discourse, but he was of such a timorous temper, and so set on the enriching his nephew, that he showed no sort of courage. He would not go to this court, when it was first opened, and declare against it, and give his reasons why he could not sit and act in it, judging it to be against law: but he contented himself with not going to it." Burnet.

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Sir *Wm. Williams.* If you save any man, this ought to be he. When your privileges were arraigned, he stood to you; he is but in the first and second commission; let him be left out.

Sir *Tho. Littleton.* I find it the disposition of the house to pass by this lord. But put the question solemnly; not to pass it off as if he were a great man, and had friends, and so left out.

Sir *John Guise.* I shall be as gentle upon this noble lord as any body. I cannot consent to excuse him, but put no question upon him.

Mr. *Smith.* I am ready to excuse this gentleman, if by vote, but not to excuse him by a vote will seem to the world as if he was guilty of no crime. I am satisfied he has deserved great punishment if his merits had not atoned for him. He has served the nation well in the Bishops case, and is a good Protestant.

Sir *Robert Howard.* I have heard from the bishop of London the great tenderness this lord showed in his case, and how he behaved himself in the public dispute, managed by Dr. Jane and Dr. Patrick, with the Jesuits. I would never put it to the question, but to have it marked as an ill thing to sit in the Ecclesiastical Commission. but to say it is no crime, that is a fault. I would have these things applied to his pardon, not to his justification; therefore I would put no question upon him.

Earl of *Ranelagh.* There is nobody in the house, but will say this was a crime in this lord; but whether he shall not be excepted out of the Indemnity for having sat in the Ecclesiastical Commission, is the question.—No question was put upon the earl of Rochester.—The earl of Sunderland was excepted by vote.

On the bishop of Durham *.

Sir *Robert Howard.* The bishop has gone through stitch which all the commissioners. He understood little law, and less gospel, but he was an ecclesiastical knowing man, who gave counsel to the lay lords. He went through all the Commissions, and in the last Commission of such an exorbitant nature, where every man's estate, liberty, and wife, were at their disposal. I was a trustee for the duke of Norfolk—In that court he took great consideration of the dutchess. In that court he gave her more than the marriage settlement. This prelate stuck to this Commission, from first to last, with equal violence.—He was excepted.

On the bishop of Rochester *.

Sir *Wm. Pulteney.* It is known to most how this bishop behaved himself. He was intreated by the bishop of London to stay in the Commission. He protected the Protestant religion, and I cannot reckon him so highly criminal.

Mr. *Arnold.* I wonder that the bishop, when we consider the worthy book he writ, 'the History of the Plot,' should find advocates here.

Sir *Robert Cotton.* He was a friend to the University and the vice-chancellor. He argued the injustice and unreasonableness of the proceedings of the Commissioners. He opposed every thing in the proceedings against Magdalen-College.

Mr. *Baldwin.* There is this farther to be said, that he deserted the Ecclesiastical Commission wholly, when they proceeded against Magdalen-College, and wrote a book against it.

Mr. *Dolben.* He acted with great zeal for the Protestant religion. He never gave his consent to one vote or decree of that Commission against the Protestant religion. He made it his business to defend it. Except acting in that Commission, he is guilty of no fault.

On lord chief justice Herbert.

Mr. *Howe.* You have excepted him once; he is put into the Bill of Attainder. I would not worry a man that is gone out of the kingdom.

Mr. *Smith.* You cannot vindicate the justice of the nation, if you take no notice of him, when three witnesses have sworn, that he is in Ireland, and he is put into the Bill of Attainder.

Mr. *Howe.* Something is to be said in his behalf. He left his place, because he would not give his Judgment against the deserters.—Lord chief justice Herbert was excepted.

On the earl of Mulgrave †.

Mr. *Howe.* Nobody can think I can have had long acquaintance with this lord, but I have been well informed that all his life he has voted for his country's interest, though he was

* Nathaniel lord Crew. "He was lifted up with the Ecclesiastical Commission, and said, 'Now his name would be recorded in history.' And, when some of his friends represented to him the danger of acting in a court so illegally constituted, he said, 'he could not live, if he should lose the king's gracious smiles.' So low and fawning was he. At the Revolution he absconded for some time, and was waiting for a ship to get beyond sea, fearing public affronts, and had offered to resign his bishoprick, but was prevailed on to go to the house, and by voting the new Settlement to merit at least a pardon for all that he had done." Burnet.

* "Dr. Sprat, justly esteemed a great master of our language, and one of our correctest writers. He died in 1713." Burnet.

† "Lord Chamberlain to king James, and afterwards duke of Buckingham. He was apt to comply in every thing that he thought might be acceptable; for he went with the king to mass, and kneeled at it. And being looked on as indifferent to all religions, the priests made an attack on him. He heard them gravely arguing for transubstantiation. He told them, 'he was willing to receive instruction: he had taken much pains to bring himself to believe in God, who made the world and all men in it: but it must not be an ordinary force of argument that could make him believe that man was quits with God, and made God again." Burnet.

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in court. He came in to the government in the late change, and did this king service. Let him pass.

Mr. *Smith.* His name is in the last Commission, and I know those injuries you have heard have been from those commissioners. If it appears that he was in the business of Magdalen-College, I am not for excusinghim. Let his quality be ever so great, if the country be concerned, I would not except him. Let any gentleman tell what he has done for the good of the nation, and I am for excusing him.

Col. *Austen.* I stand not up to excuse him; but from a great clergyman I have had it, that he stood for the Protestant religion.

Sir *Wm. Williams.* If any member can say he was more active than some you have excused, I would not pass him by. You find nothing in the Books of this man's actions. I would pass him by.

Sir *John Guise.* I have heard of good things he has done; he stood for us in the house of lords for the good of the nation.

Mr. *Howe.* This lord is not charged for acting, but for taking the Commission. He may pretend to as much favour as another. —He was not excepted.

On the earl of Huntingdon.*

Mr. *Carter.* I hope this lord will not appear to be the greatest offender. He came in to act in this Commission when the lawyers and bishops thought it safe to act. He was well assured before he acted, and advised with several lawyers, who gave him encouragement to proceed. [He was called upon to name those lawyers.] He dissented in divers things that they acted against the Church; and before the bishop of Rochester came in, he dissented. I move, that he may not be excepted in the Bill.

Mr. *Harbord.* I could tell a story of this lord, how that three days after the prince of Orange landed at Torbay, he went post to Plymouth, to take possession of it, to keep the prince out with his regiment, which was then quartered there.

Mr. *Smith.* It is strange to see how prettily we are turned off from what was proposed. Because this lord was in the last, and not in the first Commission, therefore now some would excuse him.

Sir *John Guise.* I am for the series of the inclinations of men. This lord was once a great patriot. He acted in the three last Ecclesiastical Commissions. He did go through Devonshire to raise the country against this king, and has done no service since: surely you will not exempt him for that.

Mr. *Smith.* If one gentleman will name his bishops that advised this lord, Carter can name the lawyers.—The earl of Huntingdon, and the bishop of Chester,† were excepted.

On sir Thomas Jenner.

Mr. *Smith.* I know not if ignorance and poverty may be an exemption from punishment; if it be an excuse for this man, he may claim it.

Sir *Jonathan Jennings.* He was so troublesome in the Ecclesiastical Commission at Magdalen-College, that the bishop of Chester and the Judges thought to put him out.—He was excepted.

Extract from the Treaty with the States.] July 2. Mr. Hampden acquainted the house, That, in Answer to their Address, relating to what number of Ships and of what Force, the States-General have set forth, or were obliged to set forth, for this Summer's Expedition with his majesty's fleet, his majesty said, all were come in, but two: and ordered lord Nottingham to give an Extract of the Treaty with the States, which was as follows:

"The States-General shall put to sea 30 ships of war, viz. eight from 70 to 80 guns, seven from 60 to 70, and fifteen from 50 to 60 guns, beside 9 frigates and 4 fire-ships: on board of which shall be embarked 10,572 effective men."

July 3. Resolved, "That a second Address be presented to his majesty, for leave to inspect the Books of the Privy-Council, and those of the Irish Committee, and for taking copies of such Papers as relate to the Irish Affairs."—And a Committee was appointed to draw up the said Address, accordingly. Who were likewise instructed to enquire, why the Dutch Fleet was out no sooner to join the English Fleet. Also, why the English Fleet was laid up, and why there was a delay in setting forth another.

Resolved, "That an Address be presented to his majesty, That he will please to appoint a Fund of Credit, for such as will furnish Money for relief of the Irish Protestants fled into this kingdom;" which the house engaged to repay.

July 5. The Address was read and agreed to, for leave to inspect the Council-Books, and

* One of king James's privy-council, and colonel of a regiment. He died in 1701.

† Dr. Cartwright. "He was a man of good capacity, and had made some progress in learning. He was ambitious and servile, cruel and boisterous: and, by the great liberties he allowed himself, he fell under much scandal of the worst sort. He had set himself long to raise the king's authority above law; 'which (he said) was only a method of government to which kings might submit as they pleased; but their authority was from God, absolute and superior to law, which they might exert as often as they found it necessary for the ends of government.' So he was looked on as a man that would more effectually advance the design of Popery, than if he should turn over to it: and indeed, bad as he was, he never made that step, even in the most desperate state of his affairs. He, Wright, and Jenner, were the three Ecclesiastical Commissioners for visiting Magdalen College, and he, in particular, acted in so rough a manner, that it showed he was resolved to sacrifice all things to the king's pleasure." Burnet.

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to take copies, especially from Dec. 27, 1688, to June 1, 1689, in which, the deplorable State of Ireland was charged on the neglect, or ill conduct of some persons employed in the affairs of that kingdom. And the reason of this inspection is said to be, That we may be enabled to give your majesty such advice, as may prevent the like Miscarriages for the future.

The same day, a Report was made of several children, educated in Popish Seminaries abroad, by direction of their parents and guardians. And leave was given to bring in a Bill to prevent the like abuses, and oblige such children as were then abroad, to return.

July 6. Colonel Birch made his Report, from the committee, appointed to examine the Petition of John Topham, esq. serjeant at arms; the substance of which was as follows: "That the said Topham being served with several actions of assault and battery, by certain persons he had taken into custody by order of the house, had pleaded obedience to the house, in justification: and that his pleas were, notwithstanding, over-ruled: Jeffreys, Holloway, Walcot, Pemberton, Jones, and Raymond, during the time of those several Actions, being Judges of the King's-bench."

Resolved, "That the said different Judgments, given in the King's-bench against the said Topham, are illegal, and a violation of the privileges of parliament, and pernicious to the rights of parliament, and that a Bill be brought in, to reverse the said judgments."—Ordered, That sir F. Pemberton, sir T. Jones, and sir F. Withins, do attend the house.

July 10. The Bill for an additional duty on Coffee, Tea, and Chocolate, under the title of 'An act for collecting the duties upon Coffee, Tea and Chocolate, at the Custom-House,' was passed, and ordered up to the house of lords.

Sir F. Pemberton and Sir T. Jones, examined.] July 10. Sir Francis Pemberton being desired by the house to give his reasons for over-ruling a Plea of the Order of that house, in the Case of Jay and Topham, he replied, That he knew little of the Case, it was so long since. But, that in case the defendant should plead he did arrest the plaintiff by order of this house, and should plead that to the jurisdiction of King's-bench, he thought, with submission, he could satisfy the house, that such a Plea ought to be over-ruled: and that he took the law to be so very clearly. He then withdrew.—Sir Thomas Jones being then examined to the same point, was pleased to reply, That though it was long since the Case was argued; and that he, not knowing what he was to attend upon, could give no account thereof: but, that, if any such Judgment was given, he hoped it was according to law, as the matter was pleaded. And then he withdrew.—Sir Francis Pemberton was then again called in, and his Reasons being demanded, for his general assertion, beforesaid, he desired time to answer, both to the whole together, and the particular Case of Jay and Topham. But an immediate Answer being insisted on, he said, That what he spoke, was *quoad hoc*, to that Case; however, he gave what he had said, for his present thoughts and reasons.

Being withdrawn, it was Resolved, after a debate, "That the Orders and Proceedings of this house being pleaded to the jurisdiction of the Court of the King's-bench, ought not to be over-ruled."—Ordered, That sir F. Pemberton, and sir T. Jones, do attend the house again.

Reasons to be offered at a Conference on the Bill of Rights.] July 11. Mr. Carter reported, from the committee appointed to draw up Reasons to be offered at a conference with the lords, on the Bill 'for declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown;' That the said committee had agreed, as follows:

"That the commons do not agree with your lordships in the 1st Amendment, Skin 7, l. 25. (relating to the Settlement of the crown in the Hanover line) for these Reasons: 1. That it is not contained in the Declaration, which was presented by both houses, to their majesties, upon their acceptance of the crown. 2. A farther limitation of the crown, may be dangerous, and of ill consequence.—To the last Amendment, they disagree, because the Dispensing Power has been assumed, within time of memory. Because it hath unreasonably increased from time to time, to the overthrow of multitudes of good laws. Because all laws, made for the benefit of Trade, may be thereby eluded, and monopolies erected. And, generally, because the mischiefs, that have been consequent thereon, are so great, that the commons can find no remedy to prevent the same, but by insisting upon the clause, and proviso."

Ordered, That the Conference be managed by the said committee.

Judgment of the King's-bench, against a late Speaker, reversed.] July 12. The Record of a Judgment of the Court of King's-bench, upon an Information against William Williams, esq. in the name of sir Robert Sawyer, attorney-general, being read, Resolved, "That the said Judgment, &c. for matters done by order of the house of commons, and against Wm. Williams, esq. as Speaker thereof, is illegal, and against the freedom of parliaments: and that a Bill be brought in to reverse the said Judgment."—Ordered, That sir Robert Sawyer do attend in his place, to give the house a particular account of the Orders, &c. he received for the said prosecution.

The King's Message for a Recess by Sir R. Howard.] Sir Robert Howard then informed the house, that he was commanded by his majesty to let them know, "That his majesty is very sensible of the great burden of business that has lain upon them; and, which he hopes is now near finished, that the country may receive the advantage of a Recess by the several members assisting in the settlement of public affairs; and also, that they may have the benefit by it, to take care of their own particular concerns. And that though his majesty believes, that this house is assured, that by

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what preparations are made and must be continued and encreased, there will be need of great sums of money, yet his majesty is so sensible of the disposition of this house, that he is willing no farther proceedings upon raising of Money should be, till the meeting towards winter; other than what the house have, now, themselves designed: and had commanded him to acquaint the house, that, what they have given him, shall be so applied, as that when they meet again, he is confident they will receive satisfaction, (which he always desires) in examining of. Lastly, his majesty commanded him to remind them of the Act of Indemnity, which was all he had in command."

Resolved, That sir Robert Howard do present the humble Thanks of the house to his majesty. Resolved, That a Clause be added to the Bill for settling the Revenue, That the lands and revenues, granted to, or in trust for the queen-consort of the late king James, be vested in their majesties, and that all acts relating to the same be repealed. And that the Revenue to be settled upon their majesties, be free from any charge, or incumbrances.

July 13. Sir John Guise acquainted the house from the committee on the State of Ireland, "That it has appeared to them that several persons who are in arms in that kingdom, had been in custody here in England, and were released; and had Passes given them, and that Mr. Jephson, a member of this house, was then secretary; and that the committee had directed him to move that Mr. Jephson might give an account thereof to the house." And then the house made an Order accordingly. As likewise, that the auditor of the exchequer do bring an account of what Monies have been issued out of the exchequer for secret services, and to whom, since 1682.

The King's Answers to two Addresses.] Sir John Guise then farther acquainted the house, That having waited on his majesty with the Address, for leave to inspect the Council-Books, &c. his majesty was pleased to answer, 'He would consider of it.' That he had likewise presented to his majesty the other Address, That his majesty would be pleased to appoint a Fund, for credit, for such as should furnish money for relief of the Irish Protestants fled into this kingdom, and that his majesty was pleased to say at first, 'That he liked it well.' That his majesty then asked the sense of the house touching that matter; and being told the Irish were in necessity, and that the house would take care to satisfy what was disbursed, added, 'That he would do what he could in it.'

A debate ensued on his majesty's Answer to the first Address, and then the house resolved, nem. con. "That those persons who have been the occasion of delaying sending Relief to Ireland, and those persons that advise the king to defer the giving leave for some persons to inspect the Council-Books, &c. are enemies to the king and kingdom."

A debate then arose, touching an Address to be presented to his majesty, for removing the marquis of Halifax, and marquis of Carmarthen, from his council; but was adjourned.

Mr. Jephson's Vindication.] July 15. Mr. Jephson appeared in his place according to order, and acquainted the house, "That he had perused the Books by him kept while secretary to his majesty, and that he did not find any of the persons in dispute mentioned there." Whereupon the house was satisfied that there were no Passes granted to any of the said persons.

Report of a Conference with the Lords on the Bill of Rights and Succession.] July 16. Mr. Carter reported from a Conference with the lords on the Bill of Rights and Succession; That lord Rochester managed for the lords, and gave these Reasons for disagreeing with the house thereon.—"1. Though in the Instrument offered to their majesties, the limitation went no farther than their persons, yet in a law which has respect to all succeeding ages, and that settles for ever the Liberties of the Subject, they think it reasonable to carry the limitation of the Succession of the crown farther than was necessary in that instrument, in which the crown was offered to their majesties, and that had no view but of the Succession to their posterity. 2. They can see no danger, nor any ill consequences that may follow on a farther limitation, but very much to the contrary. For, 1. This secures the nation effectually from the danger of having a Papist to reign at any time hereafter: since of such a number of Papists as stand next the crown in the lineal succession, some might be prevailed upon to shew a change in their religion, if they had a prospect of succeeding to the crown, upon it; and no danger being so great as the having one who is a pretended Protestant, but is, in truth, a concealed Papist to reign over us, the most effectual way to secure our religion, is to declare the Succession in a family, that we know is certainly Protestant. 2. It is the interest of England, at present, to do right to that great house, by limiting the Succession according to the Proviso. For, since this limitation has been proposed, if it should be now laid aside, it would look like an excluding of this house, which might provoke them to take resolutions which might be of great prejudice to the nation in the present conjuncture.—And since for these Reasons, the lords insist upon their Proviso, the same Reasons determine them likewise to insist upon that part of the rider, which relates to it."—The question being then put to agree with the lords, in their Amendments, it passed in the negative. After which, farther Reasons were ordered to be proposed to be offered at a free Conference with the lords why the house did not agree to the said Amendments.

The Duke of Schomberg takes leave of the House.] Sir Henry Capel acquainted the house, that the duke de Schomberg desired to have the honour to wait upon the house; that

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he being just going in the service of the crown, on the Expedition to Ireland, he would very willingly acknowledge the care this house hath had of him, and the fruit he had received of it, and take his leave of them; that his merit was great, and that the king had rewarded it like a king; having made him a duke and peer of England, and settled 5000*l.* a year on him and his heirs, in lieu of the like Revenues he had lost in France and Germany: two peers and two of the house of commons being named trustees, for the making purchases in order thereto.—The duke being then introduced, sat down, covered, in a chair placed for him towards the middle of the house, where having continued some time (the serjeant with the mace standing at his right hand) he rose, and, uncovered, spake to the following effect:

"Mr. Speaker, I have desired this honour, to make my just acknowledgments for the great favours I have received from this house, and doubt not but to find the effects of it in his majesty's grace and favour; and also take my leave of this honourable house, being now going to Ireland, where I shall freely expose my life in the king's service and yours."

The Speaker then replied as follows: "My lord, the services that have been done by your grace to their majesties and this kingdom are so great, that they can never be forgotten: I am therefore commanded by this house to acquaint you that they are extremely satisfied that his majesty's army is committed to your grace's conduct; and they doubt not but the war will be prosecuted in such a manner as will fully answer all their expectations. This house doth likewise assure your grace, that, at what distance soever you are, they will have a particular regard, as much as in them lies, of whatever may concern your grace, or the army under your command."

His grace then withdrew, and Mr. Comptroller acquainted the house, that his majesty consented that the Council Books might be inspected, both as to the collecting the Customs and Excise, after the death of Charles 2, and in relation to the Irish Affairs.

July 19. Sir Francis Pemberton and sir Tho. Jones were severally examined, touching their Reasons for over-ruling the plea of serjeant Topham, to the action brought against him by one Jay, and ordered into custody of the serjeant at arms.

July 20. Sir W. Pulteney reported from the free Conference with the lords on the Bill of Rights and Succession, 'that the matter had been debated by both parties, and that there were hopes the lords would agree with this house, touching the said bill.

July 22. Sir Thomas Littleton reported the Reasons to be offered at a Conference with the lords, on the Bill for reversing the two Judgments of the King's-bench against Oates. But the whole case being hereafter recapitulated, we shall, for the sake of brevity, insert the said Recapitulation only.

July 24. Resolved, That leave be given to bring in a Clause to the Bill for settling the Revenue, to repeal the Act which settles the Revenue upon the late king for life.

Report from the Council-Books, relating to the collecting the Customs and Excise.] July 25. Mr. Papillon reported from the committee appointed to examine the Council-Books, with respect to the collecting the Excise and Customs, from the death of Ch. 2. "That, with regard to the Customs, the commissioners who appeared at the Custom-House, from that time, were lord Cheney, sir Rd. Temple, sir Nich. Butler, sir John Buckworth, Wm. Dickenson, sir John Worden, sir Dudley North, and Tho. Chudleigh. That among other instances, Mr. Francis Miller informed the Committee, That being at the Custom-House, about a fortnight after the death of king Ch. 2, and discoursing with the Commissioners, he told them, 'He was not free to pay the Customs, and had his fears of what might come thereafter.' To which sir Nicholas Butler replied, 'That it was fears which brought on the last Rebellion.' This was confirmed by one Mr. Cutler.—Mr. Cockram said, That he and others being at the Custom-House with the commissioners, the said commissioners asked, 'What lawyers the merchants had advised with?' And it being replied, 'They had as yet advised with none;' Sir Nicholas Butler rejoined, 'We know what you are: if you are ready to dispute it, we are ready to dispute it.' To which sir John Buckworth added, 'Do not dispute it! It must be paid.'—That as to the Excise they find a printed Proclamation dated Feb. 16, signifying that the Commissioners of the Treasury, viz. lord Godolphin, sir J. Ernley, sir S. Fox, sir Dudley North, and Frederick Hume, had farmed the Excise to sir Peter Apsley, sir Daniel Bathurst, and James Grahme, for 3 years, for the rent of 550,000*l.* That according to the Opinion of the Judges the said contract was valid in law, notwithstanding the death of the late king; and requiring all commissioners, sub-commissioners, and all other officers, to aid and assist in collecting the said duties during the said term.—That they find by a Commission, dated March 1, Jac. 2. sir Darcy Ashburnham, Francis Parry, Ch. Davenant, John Friend, Felix Calvert, Nath. Hornby, and Rd. Grahme, to be Commissioners and Governors for receipt of the Excise, &c. and all the said Commissioners had acted as such, &c."—The said Report was ordered to lie on the table, to be considered when the Bill of Indemnity came next before the house.

Reasons for not agreeing with the Lords Amendments to the Bill for an additional Duty on Coffee, &c.] Sir John Trevor reported from the committee, the Reasons to be offered at a conference with the lords, for not agreeing with their lordships in their Amendments to the Bill for laying an additional duty on Coffee, Tea and Chocolate: which were in substance as follow. 1. "The commons have always taken it for their undoubted privilege (of which they have ever been tender and jealous) that

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in all Aids given to the king by the commons, the rate or tax ought not to be any way altered by the lords. 2. The Amendments being in point of time, the commons hope your lordships will not now renew a question concerning the method of granting Aids, which formerly occasioned great debates; and which may now beget many conferences, and end in great inconveniences. 3. The said Amendments make the Bill incoherent, for both houses having agreed, that the forfeitures should commence from July 20, it will look strange that the Forfeitures should begin before the duty is made payable. 4. Ships are now arriving daily, with the commodities mentioned in the Bill; and it will therefore be a loss to the king, by putting the commencement of the duty so far off. 5. As to your Proviso, it being an Alteration, the commons assign their first Reason for disagreeing to it: and hope your lordships will not revive old disputes."

The two houses had a Conference on the Bill to reverse the two Judgments against Oates, when the lords insisted on their Amendments.

The Lords Reasons for insisting on their Proviso to the Bill for an additional Duty on Coffee, &c.] July 23. The Lords, at a Conference, gave their Reasons for insisting on their Proviso to the said Bill; which were in substance as follow: "The lords are much surprized at the assertion of the commons, That, in all Aids, given to the king by the commons, the Rates or Tax ought not to be any ways altered by the lords, since they conceive it hath always been their undoubted right in such case, to lessen the said rate or tax, whereof several precedents might be given, which at present they are willing to forbear, that they might not revive old disputes. But as to their present Proviso, their lordships are of opinion this general point is not to the case now in difference; it being neither an alteration nor lessening of the duty laid upon those commodities; for a drawback on the re-exportation, cannot be said to lessen the rates imposed upon them; it does indeed take away so much from the king's income, but adds much more to the benefit of trade, which the lords conceive they are equal and competent judges of, and therefore may very well insist on their Proviso." To which the duke of Bolton added, "That he hoped a good correspondence would be maintained between the two houses; for that they were Englishmen, as well as the commons." And the question being put, to agree with the lords, it passed in the negative, and Reasons to be offered at a free Conference were directed to be prepared.

Aug. 31. The lords desired a free Conference on the Bill of Rights and Succession, of which Major Wildman gave the following Report. "That the Bishop of Salisbury was chief manager for the lords, who said the lords had considered of what was offered at the last free conference; and as to the two clauses, and all matters depending thereon, touching the Declaration to be made by the king and queen, and the persons to take the same, the lords insist upon their Amendment; and that they adhere to their Amendment touching the limitation to the princess Sophia of Hanover. That the managers then proposed to the lords, whether the lords would admit of any farther debate touching the said matters; to which the lords reply, No; they had no such thing in charge from the lords."

Report of the Conference on the Bill for reversing the Judgments against Oates.] The Solicitor General made the Report of the free Conference had with the lords, touching the Amendments proposed by the lords to be made to the Bill for reversing two Judgments given in the Court of King's-bench against Titus Oates, clerk. Which Report is as follows:

"That the Conference was begun by the managers of this house; who did acquaint the lords, That the commons had desired this free conference, in order to a good correspondence with their lordships. That they look upon the Bill for reversing the Judgments against Oates, not to be the business of a particular man, but of every subject in England, with regard to his person and estate: and that the honour of parliaments, public justice, and the Protestant religion, were concerned in it, as well as the integrity of king Charles 2. and his privy-council: and that the lords Amendments, if agreed to, would make that Bill of great prejudice to the subject, instead of answering the ends which were intended by the commons.

"That the lords Amendments were of two sorts; some relating to the Judgments, and others to the Verdicts. As to the Amendments relating to the Judgments, the commons had hoped, that, after the Declaration presented to their majesties upon their accepting the crown (wherein their lordships had joined with the commons in complaining of the cruel and illegal punishments of the last reign; and in asserting it to be the ancient right of the people of England, that they should not be subjected to cruel and unusual punishments; and that no judgments to the prejudice of the people in that kind ought in any-wise to be drawn into consequence, or example); and after this Declaration had been so lately renewed in that part of the Bill of Rights which the lords had agreed to; they should not have seen Judgments of this nature affirmed, and been put under a necessity of sending up a Bill for reversing them; since those Declarations will not only be useless, but of pernicious consequence to the people, if, so soon after, such Judgments as these stand affirmed, and be not taken to be cruel and illegal within the meaning of those Declarations.—That the commons had a particular regard to these Judgments, amongst others, when that Declaration was first made; and must insist upon it, that they are erroneous, cruel, illegal, and of ill example to future ages; which is the character fixed upon them by the Bill sent up

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to the lords.—That the lords having gone so far as to agree the Judgments to be erroneous, it could not be denied, that they were illegal: for that which makes a Judgment erroneous is, for that it is against law. That it seemed no less plain, that the Judgments were cruel, and of ill example to future ages. That it was surely of ill example for a temporal court to give judgment, 'That a clerk be divested of his canonical habits; and continue so divested during his life.' That it was of ill example, and illegal, that a Judgment of perpetual imprisonment should be given in a case, where there is no express law to warrant it. It was of ill example, and unusual, that an Englishman should be exposed upon a pillory, so many times a year, during his life.—That it was illegal, cruel, and of dangerous example, that a freeman should be whipped in such a barbarous manner, as, in probability, would determine in death. That here were precedents made, which did not concern this man only, or only this offence; but the Judgments pronounced against Oates, were judgments against every Englishman, subject ecclesiastical as well as temporal; the lords as well as commons.—That this was avowed when these Judgments were given by the then lord chief justice of the King's-bench; who declared: 'That all the Judges had met; and unanimously agreed, that where the subject was prosecuted at common-law for a misdemeanor, it was in the discretion of the court, to inflict what punishment they pleased, not extending to life or member.'—That as soon as they had set up this pretence to a discretionary power, it was observable how they put it in practice, not only in this, but in other cases, and for other offences, by inflicting such cruel and ignominious punishments, as will be agreed to be far worse than death itself to any man who has a sense of honour, or shame: so that, it was hoped, the lords would find themselves concerned in interest to depart from their Amendments, and not to rest satisfied with a bare saying, that such practices ought to be prevented for the future: much less to insist upon their additional Clause A; which is so far from declaring those Judgments to have been illegal, that it does plainly import an allowance of them: nor does it go so far, as to provide a remedy for the future: for it does only enact, That such excessive punishments ought not to be inflicted for the future: which seems rather to refer to the severity of the execution, than to the Judgment itself.—It was agreed by the lords at the last Conference, That the Judgments of affirmance given by the lords, cannot nor ought to stand, when the Judgments of the King's-bench are reversed: and therefore the commons think themselves concerned to insist, That the Act may speak plain; and that it may be understood by all who have heard the Judgments against Oates were once affirmed by the lords, that those Judgments of Affirmation may subsist no longer.

"As to the lords Amendments, which relate to the Verdicts; It was urged by the managers for the commons, That so severe and extraordinary a thing, as the making a man infamous, and taking away his testimony by act of parliament, ought not to be done, but upon the greatest consideration; especially in such a case as this, where the honour of parliamentary proceedings, and of the English justice, were more concerned than Oates.—The business of the Popish Plot had great examination in several parliaments, and in several courts of justice: in all which Oates stood a good witness: and though his testimony did not stand alone, but was confirmed by other witnesses, and by papers and letters (evidence which could not be mistaken); yet it did deserve to be considered, if the declaring him to be an incompetent witness, by act of parliament, would not be interpreted a great step towards disavowing the Popish Plot; it being certain, that what had been done by the lords, in affirming the Judgments against him, had already had such an interpretation beyond sea: it was therefore fit to have it plainly known, whether that was intended; and to have it well weighed, whether the thing will be so much for the honour of our nation, or our religion, that we should go out of the way, and do an extraordinary thing to come at it:—For, by law, when the Judgment is erroneous (which is confessed in this case), the whole record is to be annulled: and therefore, to let so much of the record stand as relates to the conviction (which is in effect done by the lords Clause B), is to do an extraordinary thing; is plainly to pass a new censure upon Oates; and to make that which was singly the opinion of the jury before to be the act of the whole parliament: which the commons can see no reason to agree to.—And, though it be confessed, That the present proceeding is in the legislative way, and therefore there is no necessity of strictly pursuing the forms of Courts of Justice; yet, when the commons reflect how they came to be driven to use this extraordinary course for reversing these Judgments, they cannot satisfy themselves, that it is just to take from the party an advantage which he ought to have had in the ordinary methods of law, without stronger Reasons than they have heard in this case.—They observe, The perjuries assigned against Oates were not in the substance of his evidence, but in the circumstance of time; in which there might be an innocent mistake, without contracting the guilt of wilful perjury; and that a colourable counter-evidence might be easily set up to such a point of time; especially when the thing was under the management of Jesuits, whose whole order was wounded by Oates' Evidence, and who are not scrupulous of using indirect acts, to preserve their credit or interest.—It was also to be observed, That the matter in which the perjuries were assigned, were not new discoveries; but the very same things had been objected, and insisted on at former trials, several years before, when matters were

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fresh in memory, and when most of the same witnesses were examined against Oates: and yet, after a full hearing of them, and of the witnesses produced on the behalf of Oates, his testimony was supported, to the full satisfaction of the judges and the juries.—So that, after all endeavours to the contrary, Oates stood upright, his testimony unshaken, till a Papist was upon the throne; till irregular sheriffs were made; till new Freeholders Books, consisting only of persons fit to serve the present turn, were formed; till Graham and Burton were by experience become perfect in the mystery of managing Juries; till neither counsel nor witnesses could, with safety, appear for Oates; till those times were come, when (as the lords and commons have both affirmed in their Declaration of the 13th of February) partial, corrupt, and unqualified persons were returned, and served on juries.—That violation of law, partiality, and corruption, were the character of the times; and were visible in every thing that moved towards the attaining those Verdicts: and therefore the commons think themselves well justified in calling the Verdicts corrupt, though no direct giving of money to jurors, or witnesses, could have been proved: for if nothing else but a direct proof of money given, make a corrupt verdict, it would be very difficult to shew, that ever a corrupt verdict was given: nay, it is possible a jury may have taken money; and yet give a true and honest verdict.—Any partiality in the jury, let either malice or affection be the motive, makes the verdict corrupt: if the juror do but declare his thought before the trial, it is a good cause of challenge: so nice is the law in requiring, that jurors be indifferent, that if any one of the jury be returned at the denomination of the party, or to the end that he should be more favourable to the one side than the other, the whole array ought to be quashed.—It appeared to the committee of the house of commons, who were appointed to inquire into the proceeding upon the indictments against Oates, That so great a price was set on the destroying Oates' credit, that the prosecutions were notoriously carried on by express directions and commands from the court; that great sums of money were distributed, in order to it; and fit instruments employed in procuring and instructing witnesses to swear against Oates, in the same points, which had been fully examined before; that, under colour of paying their charges, considerable sums of money were given to witnesses; that, to make sure of them beforehand, they were required to make affidavits, beyond sea, of what they were to swear at the trial; which were drawn so, that it was proved to the committee, that one of the intended witnesses refused to swear again what they had thought fit to set down for him in his affidavit.—It did appear to the committee, That clubs were kept at taverns; where jurors were named in these State-Trials (as they were called); and where Burton and Graham were assisting, and gave their directions.—Besides, there lay an exception of partiality to the witnesses, being all of them, in a manner, novices at St. Omers, a college of Jesuits; against which college, Oates had given particular testimony: besides (as Jesuits) they could not esteem it of little consequence to their order, to discredit the evidence of the Popish Plot; and disparage those parliaments who had prosecuted it with so much vigour: and how far the principles of the Jesuits would allow them to instruct their novices, that an oath, administered by heretic magistrates, was to be little regarded, might deserve to be thought upon.—It appeared to the committee, That in this case no less than nine of the most considerable counsel were employed against Oates, and had frequent meetings, and great fees; which seemed extraordinary, when nothing was in question but a point of time.—It appeared, that great treats were given several times to the jurors; which the law does not allow.—It appeared also, by the accounts upon record in the exchequer, that above 3,000*l.* was expended about convicting Oates: which the commons could not but think was too great a sum to be fairly spent, upon occasion of two trials by London Juries.—The commons saw no cause to add any authority or reputation to such Verdicts, upon a bare possibility that new matters might arise between the former trials, and those for the perjuries (which was a thing insisted on by the lords at the last conference); since it was, at least, alike possible, that no such new matter did arise; for, on the one side, it was owned by the lords, that they had not examined the fact; and on the other side the indictments shewed, that the points, in which the perjuries were assigned, were not new matters, but the same which had been drawn in question at the former trials, and upon the credit of the same witnesses: so that the presumption lay stronger on the commons' side.—As to what was mentioned by the lords at the last conference, 'That the corruption of the Verdicts did not appear to them;' it was said, That was not the fault of the commons; the lords having the same means of being informed as the commons had, if they had thought fit to use them.—It was agreed to the lords, That there was a respect to be had to legal proceedings; but then that respect ought to be equal, and the examination of the same facts, in the several trials in king Charles's reign, did deserve, at least, as much regard as the examination of the very same facts in king James's time: especially when the former trials stood confirmed by the concurring opinions of king Charles himself, and so many successive parliaments: besides, it was scarce credible, that the Judges, who could be guilty of giving such an extravagant judgment, could be indifferent in their directions at the trial.—The managers did further urge, That the lords Clause (B) did make it impossible for Oates to clear his innocence, though that was said to be the end for which it was intended: for if the conviction stand, there is no legal course left

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for hearing and determining the matters for which he was convicted: and were it supposed the lords should think fit to give themselves the trouble to enter into the examination of the whole matter, and could find out a means of doing it; yet, if the lords Proviso was agreed to, Oates could have no manner of advantage, though his innocency were fully cleared, by any judgment the lords could give; but he must still remain an infamous person, unless a new law were made to restore him: and how far it is consistent with the rules of justice, to leave a man in such circumstances, seemed very easy to determine; especially since, by pursuing the known methods of law, and intirely reversing the Judgments by act of parliament now, as it ought to have been done before by the lords in their judicial capacity, Oates may be again indicted, and brought to an indifferent trial; according to the success of which, his credit will stand or fall: and that is the only regular way which does remain, to have these matters re-examined."

The Managers for the lords, who spoke at the Conference, were the earls of Rochester, Berkley, and Nottingham, the lord bishop of London, and lord bishop of Salisbury. The substance of what was said by the Managers for the lords, as to their Amendments, with relation to the Verdicts, was,

"That, if it were proved to them, that the Verdicts were corrupt, it would incline them to agree; that being the issue between the two houses: if that was not made out, the lords did not think it fit, that Oates should take advantage of an erroneous judgment, to destroy the verdict —That, in order to let them into the examination of the matter, they had added the Clause B: that the only proper time for the examination of that matter was, after the commons had agreed to that Clause: for the lords could not enter into the examination of it in their judicial capacity, because they were then only to take the records as they stood before them.—That to make the Verdicts corrupt, there must be some corruptions made out between the time of the former trials, and the time of the subsequent trials for the perjuries. That they agreed there might be other methods of corruption than by money; but that it was hard to assign them. That the persons who served upon the juries at Oates's trials, were men of great consideration in London, some of the first form of merchants; and to dispute their Verdicts was, in effect, to attaint them: that few men but would have been pleased to have had such a jury in a case of their own. That the lords would rather believe Oates guilty of perjury and knavery, than look upon the grand jury and petty jury to be perjured. That there was no proof before the lords, That there was any favour in the return of the jury; or, that they were nominated by a club. That there was no incompetency in the witnesses against Oates; for though he had sworn against many, he had not sworn against all the jesuits. That the treating of jurors was acknowledged to be scandalous; but there was no proof of that before the lords; and, if it were true, yet it had not been sufficient to set aside the Verdicts, without other proofs of corruption, and those fit for a court of record to receive.—That they did not think it sufficient evidence, that Graham and Burton had charged great sums in their books as paid upon the account of those trials; for that might be false: or, suppose it were expended on the witnesses, did that make the Verdict corrupt; so that the lords might legally, judicially, and honestly, give their vote upon the question.—That it was a matter of great importance, and concerned every man in his life and estate, if it were taken for granted, that, because a man had, at a trial, passed for a good witness, he was not to be prosecuted afterwards for perjury: that a man accused was then in a very unfortunate condition; for the grand jury was to keep the king's secrets: the prisoner, in such a case, was for the most part kept close. and his witnesses were not sworn; so that he could not be ready for his defence for the present: and if the witnesses might not afterwards be prosecuted for perjury, by him or his, then there was an end of all prosecutions for perjury.—That the point of time was material: and that a person accused of treason had hardly any thing else whereby to make his innocence appear; since there was no proving of a negative.—That counsel was assigned to Oates: and that witnesses were summoned, and did appear for him; as they had heard.—That there was no way to reverse a Verdict but by act of parliament: and, before that was done, justice did require, that the party should clear his innocence.—That the lords had reason to expect, the commons should make out to them, the corruption of the Verdicts; and shew, that they had unquestionable evidence to prove that several thousand pounds were expended.—That they looked upon Oates as perjured in other matters: that he had accused the queen dowager of high-treason, in conspiring the death of her husband, at the bar of the house of commons; which nobody could believe of her.—That he had sworn at the council-board, he had no other person to accuse; and yet, after, had accused the queen dowager.—That Oates at first might come in with a fair intention, and for discovery of the truth; but that, appearing in the presence of so many great persons, and finding so much ear given to what he said, it was natural, that it should either damp and terrify him, or create too great a confidence: that it had the latter effect upon him; and made him fancy himself to have a right of creating evidence, rather than delivering it: that it was not fit to encourage such witnesses: that his brain seemed to be turned. and that, when he was lately brought before the house of lords, he seemed to hang his rod over them.—That now the parliament, acting as legislators, were not tied down to form: that they did not inflict any new censure on him, but left him in

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the state they found him.—That this was a matter of great expectation: that the eyes of all Europe were upon it: and that it would be the occasion of great censures, if he should be set up for a witness again, without a full examination of the whole affair; especially in the case of a conviction for perjury; which had something in it more peculiar than other crimes; for every one had a particular concern to be covered from it.—That they would not enter into the question of what was the difference between an erroneous, and illegal judgment; though, perhaps, a judgment that was erroneous in point of form, might not be said to be illegal.—As to the Affirmance of the Judgments; and the amendments relating to the Judgments; The Judges had owned to the lords, that there was a latitude left to the court in Judgments, in case of perjury; which was one thing that moved them to affirm the Judgments; but that they had never done it, had it not been attended with the Verdicts; which the lords thought of fatal consequence to take away.—That, when the case came to be debated in the house of lords upon the writs of error, there was not one lord, but thought the judgments erroneous, and was fully satisfied, that such an extravagant judgment ought not to have been given, or a punishment so exorbitant inflicted upon an English subject: but, considering his accusing the queen so impertinently, and several other instances; rather than leave so ill a man as Oates capable of being a witness, they, in that streight, chose to affirm the judgments, though they were satisfied of their being erroneous; and, to shew that they were sensible of this, at the same time when they affirmed the judgments, they thought fit, that a bill should be brought in to the house of peers, to prevent the inconveniences of the like Judgments for the future.—And therefore, when the lords had gone so far in their judicial capacity, as to affirm the Judgments, rather than the Verdicts should be set aside, the commons were not to expect, that they would recede now, and set up Oates for a witness again, without unquestionable proof of corruption in the jury. That the principal matters, insisted on by the lords, were, 1. To leave out what concerned the corruption of the Verdicts: 2. That their proviso against Oates's being received for a witness, do pass: 3. That so great an hardship should not be put upon the house of peers, as that they should, in express terms, reverse their own Judgments, since there was no necessity of it."

The Managers for the commons, by way of Reply, gave a summary Account of the whole Proceedings, in relation to the Popish Plot; and of the several subornations, and other foul practices, which had been used to stifle the evidence, and discredit the witnesses, particularly Oates. As to the lords amendments, which concerned the Judgments, it was said by the managers, "That there were precedents made, which affected every Englishman. That, by taking upon them to affirm such Judgments as these, the lords had, in a manner, taken the law into their hands. That this arbitrary power, in the lords judicature, is a new discovery; and, if it had been understood in former times, would have been a very expeditious way of altering the law, upon several occasions.—The lords, as a court of judicature, are as strictly tied to give judgment upon a writ of error, according to law, as any inferior court whatsoever: They must not proceed upon considerations of convenience; but this judgment of the lords is agreed to be given, not according to law, but according to an opinion which their lordships had conceived of the party; and that also, without any judicial examination: instead of correcting the acknowledged errors of the judgments in the King's-bench, they affirm them; and so change the law, which ought to be the certain and steady rule of government, into the arbitrary resolutions of that house.—That nothing was aimed at by the commons in this bill, but to set that matter right: if this bill be lost, the lords have settled it for law, that every subject may be used in this ignominious and barbarous manner. Oates is the least part of the question, how much soever he seem concerned in it: the grievance is, that the whole kingdom, for Oates's sake, must be made liable to these whippings.—The commons hoped, the lords will take this opportunity of redeeming this error, by passing the bill as it was sent up by the commons; and not expect, because they have given a wrong judgment, that therefore the commons must join to support it by an act of parliament: for their lordships clause did really countenance the Judgment against Oates; enacting only, That such punishment shall not be inflicted for the future.—That it was of great importance to the kingdom to have this matter settled; judgments of this kind having been extended to several persons, and to very different cases; as in that of Mr. Johnson: it was thought (with reason enough, perhaps) by the ministers of those times, that such punishments would awe the people, and fit them for slavery, worse than death itself; according to sir Thomas Smith's observation, 'That no nation is less fearful of death, or more afraid of torments, than the English'—That the commons could not think the nation safe without an express and plain declaration, not only, that the Judgments of the King's-bench were illegal, cruel, and of evil example to future ages, but also, that the affirmation of those Judgments was contrary to law."

To what was said, by the lords, to maintain the Amendments which concerned the Verdicts, the Managers for the commons replied to this effect:

"That the lords, by insisting not to agree to the clause in the bill which calls the Verdicts corrupt, unless the commons could bring positive proof of an express contract for money, to be paid directly to hire the jurors to give the verdicts, did seem to have inverted the several methods of proceedings in their

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distinct capacities.—In their judicature, where they ought to act by the strict rules of law, they proceed according to a supposed convenience: in their legislative capacity, where there is a latitude of proceeding according to a moral certainty and convenience, a single expression, 'of a corrupt verdict,' though inserted upon such just grounds, will not be allowed; unless a precise proof be made in the strictest forms of courts. If Oates's brain was turned, as was said by the lords, the more wrong was done, by convicting him for perjury; which a madman cannot be guilty of: and, after such cruel usage (which would make a wiser man mad) it may with more reason be believed his brain is turned; and then there is little danger of his being used in evidence for the future. That it was observable, that Oates was sentenced to be whipped from Aldgate to Newgate on the Wednesday; and from thence to Tyburn on Friday following: which could be intended no otherwise, but in the nature of a rack; that, by the smart of the first sufferings, and the approaching terror of the next, he might be brought to make such a recantation as was desired: and it is hard to think, that any thing, but a full persuasion in himself, that what he swore was true, could support a man under such torture. If Oates had been guilty of perjury about the Queen-dowager, or any other matter, which has not hitherto been brought in question, it did not relate to the present case: he is liable to be indicted, and punished for it, whatsoever becomes of this bill.—That the commons did not argue, That, because a man had been once believed at a trial, he was not to be prosecuted for perjury after: but they observed, that the very same objections had been made to Oates's testimony at former trials, and proved by the same witnesses; and yet the juries gave credit to Oates: so that, according to the lords way of reasoning, to suppose Oates to be perjured in those points, was to attaint those former juries; and the lords ought to be as careful of charging such a guilt upon one jury, as another. Upon the whole matter, the commons did not think it reasonable it should be required of them to concur to support any part of this erroneous record. It is the right of the subject, that all that is done before or after an illegal Judgment, should fall with it; and though, in proceedings in the legislative way, the commons are sensible they are not tied up to forms, yet they are certainly bound to the rules of natural justice, and are not to deprive the subject of his legal advantage."

The Managers for the commons concluded the conference, by stating the case, in short, to the lords: "A writ of error is brought in the house of peers: the lords do all avow the judgments to be erroneous; yet, as judges, do, for collateral reasons, assume an arbitrary power to affirm it. The nature of the Judgment being such, as that every subject was concerned in the highest degree, that so dangerous a precedent should not stand, the commons find themselves under a necessity of sending a bill to the lords to set the matter right, by reversing the Judgment. The lords refuse to pass this bill but upon terms: 1. That part of the record must stand: 2. That there must be no notice taken of the Judgments of affirmation given by the peers: As these are the terms now stood upon, so in any other like case they might impose what other terms and conditions they had a mind to. The consequence must be, that the lords, as judges, make what they think fit to be law; and the matter shall never be set right in the legislative way, but upon such conditions as the lords shall be pleased to impose: and how far this concerned the king, and the commons, as to their right in the legislature, was obvious."

A debate arising in the commons, touching the said Amendments proposed by the lords to be made to the Bill; and the question being put thereupon severally, That the house do agree with the lords in the said Amendments; it passed in the negative.

Ordered, "That the committee who managed the above Conference do inspect the Journals of both houses, and examine, whether there be any precedents of free Conferences desired, and yet there hath not been thereat a liberty of debate of the matters for which such free Conferences have been desired."

Protest thereon.] These lords following entered their Dissents to the question of adhering to the Amendments, for the Reasons ensuing:

1. "Because the persons who gave Evidence against Titus Oates were incompetent witnesses. 2. Because Titus Oates's Evidence had before been verified upon those very points in which the perjury is assigned. 3. Because it was at a time when neither council nor witnesses could, with safety, appear for Titus Oates. 4. Because it was at a time when the whole course of the administration of the government was corrupted. 5. Because a vast sum of money, on that trial, and other foul practices, were used both with the witnesses and jurors. 6. Because it makes it almost impossible to prove that a Verdict is corrupt, if nothing but the giving and taking of money may pass for evidence; whereas the law has declared, that many other things may make a verdict corrupt. 7. Because this gives the jury preference in point of justice above four successive parliaments. 8. Because it casts an imputation on the verity of the Popish Plot, and on the justice of the nation, and justifies my lord Stafford and the rest that suffered on the score of the Plot, so long as the Judgment against Oates stands in force. 9. Because it is expressly against the Declaration of our Rights on the 13th of February last. 10. Because it is the greatest blow that ever the English liberties received; and puts them under a greater disadvantage than if they had not so lately been declared. 11. Though a Bill should be brought in to declare the like Judgment shall not be given in time to come, yet it would imply, that before, such Judgment was lawful; which may be of pernicious consequence. 12. Because this

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Judgment against Oates has so far been received for law, since Oates suffered, that whipping hath been used in other cases besides perjury. 13. Because the lords have allowed the Judgments against Titus Oates to be erroneous. 14. Because it is more consistent with the honour and justice of the house of peers to rectify a mistaken Judgment, given by themselves, than to adhere to it. 15. Because, at Oates's Trial, the court refused to grant a Habeas Corpus for his witnesses that were in prison, though often by him demanded, and no notice was taken of his demand even by the jurors themselves. (Signed,) Bolton, Herbert, Monmouth, Bolingbroke, Radnor, Stamford, Granville, Montagu, Paget, Shrewsbury, Ward, Delamer, Newport, Cornwallis, Rivers, Vaughan, J. Lovelace, Bath, Culpeper, Macclesfield, Oxford."

Aug. 9. The Resolution of the Committee of the whole house, That it was their opinion that an additional Proviso should be added to the Bill for settling the Revenue, for granting 40,000*l.* per annum to the princess Anne of Denmark for her life only, was reported; and on the question, it was resolved, that the debate should be adjourned, till the Revenue came again under consideration.

Mr. Hampden, chairman of the Committee, also, at the same time, acquainted the house that he was directed by the committee to move that a Bill may be brought in for settling a particular Fund, for satisfying the 600,000*l.* to the Dutch for defraying the Charges of the Expedition to England; and also for 60,000*l.* for the servants of Charles 2. to both which particulars the house agreed.

Aug. 12. The Committee upon the Irish Affairs delivered in their report; the principal part of which, turning on the conduct of col. Lundy, governor of London-Derry;

Resolved, That an humble Address be presented to his majesty, that colonel Lundy be sent over to London-Derry, to be tried there for the Treasons laid to his charge.

Reasons to be offered at a Conference with the Lords for settling the Order of Conferences, &c.] Aug. 13. The Reasons to be offered to the lords at a Conference with the lords for settling the method of proceedings between the two houses, upon Conferences, and free Conferences, were reported by the Solicitor-General, and were, in substance, as follow: "The commons have desired this Conference, on occasion of your lordships Message to them, signifying that your lordships adhered to your Amendments in the case of Oates; and have commanded us to open it with a brief of the Dispute between the two houses.—Writs of error were brought to reverse two Judgments against Oates, for perjury, by which he was sentenced to be degraded, to be set in the pillory annually several times; to be imprisoned for life; to be whipt from Aldgate to Newgate one day, and from Newgate to Tyburn the next. These Judgments your lordships thought fit to affirm. These precedents being of such dangerous consequence to every English subject, the commons thought themselves under a necessity of sending up a Bill to your lordships to have them reversed; in which bill they are called erroneous, 'illegal, cruel, and of evil example to future ages.'—Your lordships by Message acquainted the commons, that you had agreed to the Bill with amendments. By these Amendments the words 'illegal, cruel, and of evil example to future ages' are left out; and a Clause is added, that such excessive punishment should not be inflicted for the future. The words relating to the annulling the said Judgments of the peers on the writ of error, are likewise left out; and a Clause is added, That, till the matters for which Oates was convicted be heard, and determined in parliament, he should not be received as a witness in any court or cause.—The commons, at a Conference, delivered their Reasons why they could not agree to these Amendments; your lordships did the same for insisting on them; but they not proving satisfactory to the commons, a free Conference was desired and obtained, in which your lordships owned that the whole house of peers was satisfied that the Judgments given by the King's-bench, were erroneous, extravagant, and the punishment so exorbitant, as ought not to be inflicted on any English subject, and also that you would not debate whether an erroneous judgment was not illegal: but yet your lordships did declare, that, upon the writs of error, you had chosen to affirm the judgment, rather than Oates should be restored to his testimony; which must have been the consequence of the reversal.—After your lordships had owned so much at the Conference, the commons were extremely surprised to receive a Message that you adhered to your Amendments. 1. Because by this general Vote of adhering, your lordships depart from what was yielded at the free Conference. 2. Your lordships proceeding to adhere upon the first free Conference, they look upon to be irregular; at least, contrary to the ordinary course of proceedings between the two houses: especially, if such adhering should be looked upon as conclusive, since it is usual to have two free Conferences or more, before either house proceeds to adhere.—And, as to the course of parliament, so it is suitable to the nature of things, that there should be no adhering before two free Conferences, at least: because, before that time, each house is not fully possessed of the Reasons upon which the other does proceed, nor have full opportunities of making replies: wherefore, to adhere sooner, is to exclude all possibility of offering expedients.—Beside, this method of adhering so suddenly and unexpectedly, draws very great inconveniences after it: as hath appeared this session; 'The Additional Poll-Bill,' having been lost, to the great prejudice of the crown, by your lordships adhering upon the first free Conference. 'The Bill of Rights,' likewise, in which your lordships, as well as the commons, are highly concerned, by that same quick way of adhering, is in danger to be lost: and no

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inconveniences can be greater than what must follow the loss of this Bill, if your lordships should take upon yourselves to be conclusive, by adhering upon the first free Conference.—For the commons think it undeniable, That in proceedings in your judicial capacity, upon writ of error, your lordships are as much bound to give judgment upon the record, according to the strict rules of law, as any inferior court whatever, and ought not to enter into the consideration of persons, or collateral respects.—That, for your lordships to assume a discretional power, to affirm a Judgment, though at the same time, you agree it is erroneous, is to assume a power to make law, instead of judging according to the rules of law.—That, when the commons send up a Bill to your lordships, in order to prevent the mischiefs of such destructive precedents, for your lordships to refuse to reverse those Judgments, though confessed to be erroneous, (unless upon such terms as you are pleased to impose, and to which the commons cannot, in reason, agree) is to leave the kingdom without redress against acknowledged wrongs.—It is recorded, to the honour of your noble ancestors, That they declared they would not change the laws; and the commons hope, you will pursue their steps, and not, by affirming erroneous Judgments, go about to make that law, which was not so before; and, by insisting upon collateral terms, before you will reverse those Judgments in the legislative way, take to yourselves in effect the whole power of the legislature; which is not only to change the law, but to subvert the constitution of the government; if your lordships should persist in such a way of proceeding, and the commons should acquiesce in it.—The commons, therefore, hope your lordships will not persist in this unusual way of adhering, which manifestly tends to the interruption of a good correspondence between the two houses, at this time of such absolute necessity for the establishing the government, and for the peace and safety of the kingdom."*

Petition against Colonel Copley.] The same day, George Mawson, deputy post-master of Kingston upon Hull, exhibited a Petition to the house, complaining that colonel Copley, lieut. governor of Hull, had divers times taken into his possession the post-mail coming to the said town, and disposed of the Letters at his pleasure, to the great prejudice of the traders, &c. of the said town, and the gentry in the neighbourhood. That he having made complaint of this to John Wildman, esq. post-master general, the said post-master ordered him to cause the mails to be brought directly to his own house; and, likewise, wrote to the said col. Copley to enjoin him, not to open the mail for the future; Notwithstanding which, the said colonel behaved as before, and sent for the petitioner to come to him, who declining it, on account of indisposition; the said Copley ordered a serjeant, and four musqueteers to bring him, tied neck and heels, which they did with such a strange violence, that the blood gushed out of his nose and mouth, and kept him in that intolerable posture for two hours. In consequence of which, the said petitioner is disabled in his limbs, and impaired in his sight, &c. and for as much as the said petitioner cannot have his remedy against the said Copley, by a due course of law, praying the house to take his case into consideration, &c.

Ordered, That lieut. colonel Copley do attend the house.

Aug. 14th, The said Copley attended accordingly, and the petitioner having made good his allegations,

Resolved, "That the seizing the Mail, and breaking open the Post-Letters by any military officer or soldier, is a violation of the right of the subject. That the breaking open the Letters directed to, or sent from a member, is a Breach of Privilege. That the imprisoning, or inflicting any punishments, by any officer or soldier, upon any of the subjects of this kingdom, not being in actual military service, and in pay, is a violation of the rights of the people. That the case of the Petitioner be referred to the committee of grievances."

Another Petition was presented against the said Copley, for exacting a farthing a tun, from every ship entering the port of Hull: upon which he was again summoned to attend the house; and alledging the said farthing a tun was his perquisite, as lieut. governor, for the maintenance of a certain Chain;

Resolved, "That the levying a farthing a tun, or any sum of money on Ships coming into the port of Hull, upon pretence of maintaining a Chain there, is an illegal exaction upon the people." And he was afterwards enjoined to levy the said pretended duty no more.

A tumultuous Petition of the Silk-Weavers, occasioned by a Woollen Bill.] This day the commons having sent up a Bill to the lords, for the enjoining the wearing the Woollen Manufacture of this kingdom at certain times of the year, the bailiffs, wardens, and assistants of the companies of Silk-Weavers of London and Canterbury, presented a Petition to their lordships in a tumultuous manner, praying to be heard before the said bill should be passed into a law. Whereupon the house ordered their Speaker to tell the petitioners, "That the lords did not then think fit to give an Answer, because they observed there was an unusual manner of application of men, who ought to be

* "Upon the whole matter Oates, by the dint of the struggle, made a shift to obtain, 1. An Address from the parliament to the king, requiring that his majesty would be graciously pleased to grant him his pardon, 2. The king's pardon in consequence of that Address, and, 3. A pension of 5*l.* a week in lieu of the several pensions formerly granted him by king Charles of 624*l.* 60*l.* and 200*l.* per ann. which he had been deprived of, and which he had now again applied for, and expected to be restored to." Ralph.

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better directed by them who were bailiffs, wardens, and assistants of the Company. That the lords did first require that those crowds should go home; and when that was done, neither they, nor others, people of this nation, needed to doubt, but that their lordships would do justice, and hear the objections of parties concerned in this or any other Bill that should come before them."—And to prevent the eruption of this unruly multitude, which was supposed to be egged on by the discontented, the lords desired his majesty to command some of the horse and foot guards to be aiding to the civil powers; and ordered the governor of the Tower to take care to prevent any unlawful concourse of people in the hamlets of that fortress; the lord mayor of London to have a sufficient number of the Trained Bands in readiness to hinder the passing of any extraordinary numbers of people through the city towards Westminster. And the deputy lieutenants, and justices of the peace of Middlesex, to provide for the security of the city, and liberties of Westminster. The Weavers, seeing these preparations remained quiet in their houses: Whereupon the lords discharged the Trained Bands which had been posted in the Palace yard, Westminster. However, upon the second reading of the Bill for the enjoining the wearing the Woollen Manufactures, their lordships unanimously rejected the same.

Conference on the Bill of Attainder.] The commons having past the Bill, 'for attainting several persons in Rebellion against their majesties,' and sent it up to the lords for their concurrence, the committee whom their lordships appointed to examine the same, prayed, 'That the commons might be desired by a Conference to give a List to the lords of the persons that gave evidence to the commons, against the several persons designed in the Bill to be attainted; that the lords might be fully satisfied by evidence, *vivâ voce*, to attaint the several persons, (as they supposed the commons were;) for that if the lords should by themselves enquire of such evidence, they might fail of hearing all the evidence the commons had had.' The lords having agreed to this motion, a Conference was desired and managed betwixt both houses, at which the commons gave a list of the witnesses that deposed at their bar, against the persons mentioned in the Bill of Attainder. These witnesses were W. Watts, Matthew Gun, Basil Purefoy, and W. Dalton; whose Evidence not satisfying the lords, the Bill lay neglected for some days; but the commons having pressed their lordships by two Messages to give expedition to it, the house agreed with the committee in leaving out Thomas lord Howard, the earl of Dover, the lord Hunsdon, sir Roger Strickland, sir Edw. Herbert, colonel Hugh Southerland, and sir W. Jennings, because there did not appear sufficient evidence against them.—The prorogation of the parliament, which happened soon after, put a final stop to this Bill.

The Speaker's Speech to the King at the Adjournment.] Aug. 20. The Bills being ready for the royal assent, the king came this day to the house of peers, where the Speaker of the commons addressed his majesty as follows:

"May it please your majesty; the commons in this present parliament assembled, having taken into consideration the great assistance that was given by the States of the United Provinces to your majesty, in your glorious design of restoring these kingdoms to their ancient rights and liberties, and how for that end they intrusted their army and fleet to your majesty's disposal, at a time when they had a war declared, and an invasion threatened, by the French king, merely to divert them; they do here humbly present your majesty with a Bill for the appropriating certain Duties of Excise and Customs for the raising of 600,000*l.* which they desire may be applied by your majesty for the satisfaction of the Charges which have been expended by the States in this Expedition.—It is little more than an age, since the most illustrious prince of Orange, your majesty's great grandfather, whose name will ever be famous for his love to his country, did, by the assistance of the English, redeem those Provinces from the like oppressions; which shews how inseparable the interests of these two nations are: and since it was the fatal policy of those that laboured our destructions to endeavour to divide us; it ought to be the endeavour of all true lovers of their countries to keep us firmly united, in order to our preservation.—The commons have likewise considered of the great Arrears that were left due by king Charles 2nd to his Servants; and have therefore made a provision of 60,000*l.* for them, which they humbly desire your majesty would please to distribute amongst them, in such proportions as your majesty, in your princely wisdom, shall think most fit.—And having proceeded thus far in the weighty affairs depending before them, they now become humble suitors to your majesty for a recess, that thereby they may have the opportunity of repairing into their several counties, and promoting your majesty's service there; and what remains undone at present, for want of time to dispatch, they doubt not but that they shall be able to perfect at their next meeting, and, as they hope, to the intire satisfaction of your majesty and the whole kingdom."

After passing the several Bills, the lord privy seal signified, That it was his majesty's pleasure that both houses should severally adjourn themselves till Sept. 20th; but that his majesty did not intend there should then be a Session, unless some emergency of affairs happened: and that, whenever a session was to be, his majesty would give them notice by proclamation.

The King's Speech to both Houses.] Oct. 19. The parliament met, when his majesty made the following Speech* to both houses:

* It is remarkable, says Oldmixon, that this Speech, which met with universal applause, was composed by the king himself, who, on the

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" My lords and gentlemen; Though the last sitting continued so long, that perhaps it might have been more agreeable to you, in relation to your private concerns, not to have met again so soon; yet the interest of the public lays an indispensable obligation upon me to call you together at this time.—In your last meeting, you gave me so many testimonies of your affection, as well as confidence in me, that I do not at all question, but in this I shall receive fresh proofs of both. I esteem it one of the greatest misfortunes which can befal me, that, in the beginning of my reign, I am forced to ask such large Supplies; though I have this satisfaction, that they are desired for no other purposes, but the carrying on those wars into which I entered with your advice, and assurance of your assistance. Nor can I doubt of the blessing of God upon an undertaking, wherein I did not engage out of a vain ambition, but from the necessity of opposing those, who have so visibly discovered their designs of destroying our religion and liberties.—It is well known how far I have exposed myself to rescue this nation from the dangers that threatened, not only your liberty, but the Protestant religion in general, of which the Church of England is one of the greatest supports, and for the Defence whereof I am ready again to venture my life.—My Lords and Gentlemen; That which I have to ask of you at present, is, that what you think fit to give towards the Charges of the War for the next year, may be done without delay: and there is one reason, which more particularly obliges me to press you to a speedy determination in this matter, because this next month there is appointed, at the Hague, a General Meeting, of all the Princes and States concerned in this war against France, in order to concert measures for the next campaign. And till I know your intentions, I shall not only be uncertain myself, what resolutions to take, but our allies will be under the same doubts, unless they see me supported by your assistance. Besides, if I know not in time what you will do, I cannot make such provisions as will be requisite, but shall be exposed to the same inconveniences, which were the cause that the preparations for this were neither so effectual nor expeditious as was necessary: the Charge will also be considerably lessened, by giving time to provide things in their proper season, and without confusion.—I have no other aim in this, but to be in a condition to attack our enemies in so vigorous a manner, as by the help of God, in a little time may bring us to a lasting and honourable peace, by which my subjects may be freed from the extraordinary expences of a lingering war; and that I can have no greater satisfaction, than in contributing to their ease, I hope I have already given proof.—That you may be satisfied how the Money has been laid out, which you have already given, I have directed the Accounts to be laid before you, whenever you think fit to call for them.—My Lords and Gentlemen; I have one thing more to recommend to you, which is, the dispatch of a Bill of Indemnity; that the minds of my good subjects being quieted, we may all unanimously concur to promote the welfare and honour of the kingdom."

Resolved, That the humble Thanks of the house be returned to his majesty, for his gracious Speech *.

The same day, the sheriffs of London waited

18th of October, produced it to the Council, written with his own hand in French, at which time he was pleased to say, 'I know most of my predecessors were used to commit the drawing of such Speeches to their ministers, who generally had their private aims and interests in view; to prevent which, I have thought fit to write it myself in French, because I am not so great a master of the English tongue: therefore I desire you to look it over, and change what you find amiss, that it may be translated into English.'

* " The Speech, we are assured, was received with universal applause. Among the lords, no objection was started; and among the commons but one, (which met with little countenance) by sir Tho. Clarges, who made it a matter of complaint, that the words, 'as by law established,' did not follow the mention that was made in it of the church of England: Both houses returned their solemn Thanks; and after this seeming earnest of their good humour, it was thought advisable to provide yet farther for the peace of this session, by extinguishing, as far as possible, the broils of the last: as that had been closed by adjournment only, the several contests between the two houses were left open, and the several inflammatory bills depending; which might be again prosecuted at pleasure: but a Prorogation cancelled all, and laid the malignants under a necessity to begin their webs again. A prorogation was therefore resolved upon; and yet such was the caution of his majesty at this crisis, that he would not exercise that branch of his prerogative, without the concurrence of both houses: accordingly he applied to them for their sense of the matter, and had the pleasure to find that of the lords exactly conformable to his own: but among the commons there was a party who asserted, that such a prorogation was altogether irregular, after his majesty had in his Speech proposed new matter to their consideration: and, in truth, it seemed reasonable enough to conclude, that if a prorogation destroyed all connection between session and session, in relation to the matters depending in either house, it would also do the same with respect to the matters proposed to them from the throne. But the majority were of another mind: and thus, fortified with the approbation of both lords and commons, his majesty on the 21st put a stop to the current of public business, that it might flow the more freely on the 23d following: for it was then that he came again to the house, for form's sake, and opened the session anew with a short reference to his last Speech." Ralph.

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on the house, and being admitted, signified, That the lord-mayor and citizens of London, humbly prayed, that the house would do them the honour to dine with them, on the lord-mayor's day. Which invitation the house accepted of, and returned their Thanks for the same.

Oct. 21. His majesty, by message, by the lord chief baron Atkins, Speaker of the house of lords (the marquis of Halifax having desired to be excused from that office), commanded the house to attend him in the house of peers, where he was pleased to prorogue the parliament to the 23d.

SECOND SESSION OF THE CONVENTION PARLIAMENT.

Oct. 23. Both houses assembled again, when his majesty was pleased to declare from the throne, "That, having spoke so lately to them, he need not say any thing now; matters not having been altered from what was then: and therefore referred to what he had said last to both houses, and desired that speedy resolutions might be taken."

Oct. 24. The house resolved, nem. con. That they would stand by, and assist his majesty in reducing Ireland, and joining with his allies abroad, in a vigorous prosecution of a War against France. And, that his majesty be humbly addressed, That he would be pleased to direct, that a State of the War for the ensuing year may be laid before the house.

Proceedings against Burton, Graham, and sir Tho. Jenner.] Oct. 25. The Misdemeanors of Burton, and Graham, were again reported to the house, from the Journals of the last session (see p. 278.) At the same time was reported, likewise, the case of sir Thomas Jenner, late one of the barons of the exchequer: who was charged with declaring for the king's Dispensing Power, for being a commissioner for ecclesiastical causes, for having acted as one of the visitors of Magdalen college in Oxford, and committed most notorious offences, in expelling the president and fellows, &c. and afterwards joining in a decree to make them for ever incapable of preferment, either spiritual or temporal: all which, it was said, involved the said sir Tho. Jenner in the subversion of the laws and government of the kingdom. The house being then informed, that several state prisoners were at that instant bailing in the King's-bench, by virtue of the Habeas Corpus act, ordered, That sir Thomas Jenner, Graham, and Burton, be immediately brought to the house by the governor of the Tower, to answer such matters as shall be objected against them; and the said Jenner being bailed before the warrant of the house could be served, the serjeant at arms was ordered to take him into *custody; as* likewise Burton and Graham, *which last were* brought to the bar and examined; but not giving satisfaction, a Committee was appointed to prepare a Charge against them.

The Earls of Salisbury and Peterborough impeached, &c.] Oct. 26. Ordered, That the governor of the Tower do immediately bring before the house the earl of Castlemain, sir Edw. Hales, Ch. Hales, esq. and Obadiah Walker, to answer such matters as should be charged against them.

Resolved, That an Impeachment of High-Treason be sent to the lords against the earls of Salisbury and Peterborough for departing from their Allegiance, and being reconciled to the church of Rome. And that Mr. Foley do impeach the said earls at the bar of the house of lords, in the name of the house of commons, and of all the commons of England, which was accordingly done; and the lords committed the earl of Peterborough to the Tower the same day, where the earl of Salisbury was already confined.—Sir Edw. Hales, Chas. Hales, and Obadiah Walker, being then severally brought to the bar, and put on their defence, Walker and sir Edward were ordered to the Tower, but Mr. Hales was discharged.

Oct. 28. The earl of Castlemain being brought to the bar, and there examined, it was ordered that the said earl be charged in the Tower, by warrant from the house, for High-Treason and other high crimes and misdemeanours. And the said earl desiring he might have the liberty of the Tower, and of being waited upon by his servants, &c. and not to be confined close prisoner, as orders had been of late given, both with regard to him and others; a debate arose, (the earl being first withdrawn) the result of which was the appointment of a committee to bring in a Bill for the better regulating the Imprisonment of the subject, who were likewise empowered to examine into Abuses committed by gaolers, &c.—Resolved further, That Mr. Attorney-General be ordered to prosecute Mr. Richardson the keeper of Newgate, for his illegal usage of several of the king's subjects, during their imprisonment.

An Enquiry voted into the Conduct of the War.] Nov. 1. Sir Henry Capel (Auditor of the Imprest) presented to the house two Accounts of the Monies arising from the Revenue, and the Issues by way of imprest. Lord Ranelagh, (Paymaster of the Forces) likewise presented to the house by his majesty's command, a State of the War for the ensuing year, viz. For the English forces in England. For the Dutch forces in England. For the English forces in Holland. And, for the forces in Ireland.—Sir Thomas Lee presented the State of the Navy for the ensuing year; and sir Henry Goodrick, a State of the Ordnance. All which Accounts being read, Resolved, That a committee be appointed to inspect the Expences of the War the last year, and to make their report to the house.

Resolved, nem. con. That a Committee be appointed to examine by what means the Intelligence came to be given to their majesties enemies, concerning the several stations of the winter-guards of the Navy; as likewise into Miscarriages in the victualling of the navy; the transportation of the army, and whatever relates to the last year's conduct of the War.

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Debate on the State of the War.] Nov. 2. The house resolved into a grand Committee on the State of the War; Mr. Hampden in the Chair.

Sir *Tho. Clarges.* The Forces now in pay are 70,000 horse, foot, &c. I think the nation cannot keep them. When we were at war with the two great powers of the world, Holland and France, the establishment was much short of that. Now the king is graciously pleased to come in to us to relieve us from civil and military oppressions, I hope we shall be in that way and order as to have no extraordinary Forces. Though we are in a state of war, we need not above 25,000 men. Our conditions with Holland are upon the foot of the treaty of Ch. 2, of mutual alliance and defence. If either party be attacked, we are to deal by mediation; and if we cannot compose, we are to assist with 8000 men, and are to come into the war in three months. I think we ought not to continue the 8000 men. I know, none of the allies are obliged to beat king James out of Ireland; we are to support that. I do not think it for us to take more upon us than we necessarily are obliged to. I think, 40,000 men may be taken out of this establishment; I am sure a less number conquered Ireland in 1650. I profess, I am much in the dark, till I hear some proposition from the king of the State of the War for the next year, and till we know the obligation of Alliances. The Dutch forces are given in 14,000. They are not all in Ireland, some are in Scotland. They are upon parole to keep up 70 in a company, &c. and perhaps they are but 32 in a company, and in a year they will be filled up; so that we have a chimerical army. Let the muster-master acquaint you farther.

The Earl of *Ranelagh* gave an account of the Establishment, and rectified Clarges's mistakes.

Mr. *Garroway.* I see no certainty of the number of men in England, Scotland, and Ireland. I think the Account that has been transferred to you comes from the muster-master, and the king is abused. I would go on regularly to the State of the War, what the king thinks fitting, and they to bring in where the men are; without the certain number of men, you know not how to provide. I think it fitter to apply to the Fleet, and retrench the Landmen. England knows no need of them. I believe the Money is not all spent. I think it may be embezzled. I never saw a worse Account. If we do not presently give Money, I would have some Vote to give credit to the war. I would have the true state of the number of men; it is no matter whose regiments they are. I would have Accounts brought here by somebody that will allow them, but I desire not to go blind-fold. Let the Money be rightly applied, and I will go with the highest, and I desire the king to give us the State of the War.

Sir *Edw. Seymour.* I speak to method, which is carried on with great uncertainty. Some may seem abuses of the muster, and that is no part of your order. It is 'to consider the State of the War,' and it is more pertinent, to consider the numbers necessary to carry on the war the next year. If gentlemen think England in a condition to carry on the war for themselves, and the confederates, I am afraid they are mistaken. I believe, all concurrence is little enough for what is necessary to carry on the war. I think you had good service from Clarges, who proposed retrenchments of the Dutch Forces: I am sorry that Englishmen are not fit for English interest. If, for fear of an enemy within you, you must have an army, you will never be without one. I am sorry the interest of England is said to be safer in foreign hands, than English. If, by the Treaty, you are to provide for Holland 10,000 men, you are no farther obliged than till you come into the war; then that is a charge extraordinary. You that are come in at the last part of the day as assistants, now are made principals; and they will leave you out when it is their interest. Upon another debate to talk of suppressing popery, and your allies leave you—If you stick there, we must either suppress them, or they us There are 7000 Danes designed for Ireland; a great sum is gone for them. I will not repeat the scarcity of money; but how many Irish gentlemen must fight for their own, and yet we send for foreign forces, and give all we are worth for Ireland, and know not whether we shall be masters of it. I do think, that, as to the 8000 to be sent to Holland, you are not obliged to it. The Dutch army is unnecessary, and I hope you will think of it.

Sir *Tho. Lee.* I am of Seymour's opinion, to begin with Ireland; but, as for the Danes, I think there is a great deal of difference in the Charge betwixt them and Irish gentlemen, who will not serve for common soldiers, as the Danes. I hope we shall keep Ireland, when we have got it: let us get it first. As for the 8,000 men we are to supply Holland, at the same time those are withdrawn, they may withdraw their fleet.

Sir *Tho. Clarges.* We are now possessed of the whole province of Ulster, where, by computation, are three Papists to one Protestant, and in Munster more Protestants, and I am well informed that a great body may be raised there, who will fight *pro aris et focis.* The best inducement to have the Danes is, that they should not go to the French.

Sir *Rob. Howard.* By this debate, we shall find, that making too melancholy a prospect is to the advantage of our enemies, but may be, upon serious consideration, for our use. Should you, out of good husbandry, strike off 10,000 men from Ireland, I believe you will give great satisfaction to king James. Seeing you shrink in that, you may increase the French king's resolution in supplying him. King James's army in Ireland is supposed 20,000 horse, and 30,000 foot. The loss of 10,000 of ours there may have strange effects.

Mr. *Garroway.* I am still of the same opi-

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nion that this is the worst Account I ever saw in my life. When king James went away, he left 30,000 men, and we had 10,000 out of Holland. The English arms are all lost; and now effective, rank and file, you have not 20,000 of these men left.

Sir *Tho. Clarges.* I am not of capacity to say how many men may serve for Ireland, but I would have his majesty moved to declare the numbers for next year.

Major *Wildman.* I would remove a mistake; we talk not here for the king, but for the kingdom. I have heard a doctrine preached here, 'Take care we be not principals in the war against France;' but against king James we are principals in that war to defend us from popery and slavery. It has been the doctrine of this house many years, that France is in the bottom of all slavery, and that was to be brought upon us. We are in a worse condition than the confederates, and have need of all the confederates against king James and France. The French king would have made conditions with Holland, and offered money to divide Holland from us, with all offers of trade, if they would have left us in the lurch, and not assisted the prince of Orange; and they may still make peace. I believe nobody here is inclined to treat with king James. We must have war upon us, and if we are wanting to ourselves, and give the least discouragement to the confederates, they may leave us to ourselves to struggle with France and king James. It has been by the treachery of late princes that we have been brought to truckle under France, which has brought him to be able to oppose the greatest powers by sea, the English and the Dutch. I remember the time when the French durst not build a ship without giving an account of it. I move that you would supply the king with what forces are necessary for Ireland, and what may wholly suppress Ireland.

Mr. *Garroway.* I do not agree with him for so great a supply. I do not think to lay a foundation for such a war as that the king of France should not build a ship without our knowledge. I believe, if it were not that the crown of Spain would be in dispute, you never would have had the company of the confederates, and the emperor would make peace. I do believe that we cannot support the war above a year longer. Therefore say you will grant a Supply to carry on the war, and I am for it; but 'that the French king has 40 or 50,000 men in Germany,' I have heard it, but I believe nobody ever saw it. That the French king should have 200,000 men, and suffer Bonn and Mentz to be taken! And possibly, if he had chopped 10,000 men into Mentz, they had done him more service than all he could do. I am free to make a provision for a good force. I care not what it costs us, but I would not be cozened.

Col. *Birch.* It is not known to me, whether we are to have 30 or 40,000 men; that will be in due time. You may preserve Ireland and yourselves, if God Almighty does not take away your understandings; therefore I move, 'That 40,000 men may be for the next year's establishment in Ireland.'

Sir *John Guise.* You have been told of the former reducing of Ireland. The Forfeitures were taken of Papists estates, and at three years value raised 320,000*l.* I move that you will consider some such way now.

Sir *John Trevor.* The question is, Whether you will consider the numbers of men, or a lump of Money for Ireland? I am for men, and if you appropriate not the money, it may be applied either to the navy, or the Dutch, and not for Ireland, and neither done at last. I do not understand that what is sent to you is an Answer to your Address. If you compute for 36,000 men, I would venture to give for 50,000. I am sure it is more proper for the king. We are not a council of war, but representatives of the people, to assist him. We are but to supply, according to the numbers of men; the king cannot else carry on the war vigorously. If you make not an end of the war this year, I know not how we can supply it another. I move, 'That the king may send us the State of the War.'

Sir *Henry Capel.* Several of the Council attended the king about the Admiralty and the Army, and the state of both is delivered to the house, as approved of by the king.

Sir *John Trevor.* Capel goes a great way, but those who gave in that State of War to the king, understand war no more than himself.

Sir *George Treby.* There is a necessity that Ireland should be reduced: I have no share of it when it is reduced, but I would have it reduced. I am not so vain as to say that France should be reduced, but I would suppress so great a neighbour. Our consideration is for carrying on the war, but most discourses seem to depart from that rather than to pursue it. But I hear spoken of, our being delivered from a Standing Army; we had a standing army, but were delivered from it by the duke of Albemarle (general Monk.) But there is an absolute necessity of an Army, unless you would be annoyed at home, when you are defending your outworks. I hope those who are not for supporting the government, will be reckoned amongst French and Irish. It is said, 'There are mismanagements in the Accounts;' to which no man is a greater enemy than myself. I have seen the time, when those who cheated the king were thought the best men. The Money we are to pay now is our redemption-money; for what we paid to beat our enemies formerly, was spent upon dissolute persons at court. I agree if we look to the well-management of the Money, it gives double; and notwithstanding it is so good, it must be taken in its proper time, and not hinder what is for immediate safety.—It has been said, 'That the emperor is not obliged to reduce Ireland;' but if he opposes France, he helps to reduce Ireland. There is a meeting of the Confederates at the Hague the next month, [see the King's Speech,] and when the king knows your intentions, he

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will take his measures accordingly; and till you declare how you will assist him, it is not possible for him to take his measures. It is said, 'We have foreigners in the nation, and that the natives might be sufficient to preserve you;' but though prorogation annuls 'Votes' of parliament, yet not 'Acts.' You have desired their assistance, and given them Money. Denmark might have had better terms from France: you will not entertain him, and he casts himself into the French king's arms. We look upon them (as in great part) naturalized to our interest. We were grieved with popery; where was the back? It was France gave the back to that edge, but instead of an 'actual war,' that we had given money for, it proved an actual peace, and we were choused of it. France heretofore was but an inland province, and now is great at sea. It is well to provide that all maletactors be punished, that we may live well, but we must live before. What is wanting to this state of war? You would have some Estimate of the war; you have called for Accounts, for this day's work, and contented yourselves with all materials requisite, and believed you would accept this given as a State of the War; should you have more, it is but in order to giving Money. Now, having this before you, it is enough to inform your judgments as proper to guide your vote.

Mr. *Garroway.* Two millions will not do the Charge, according to the computation of horse and foot; but if you be pleased that it be added to the Revenue, it will do all your business, and I believe you will be supplied fully.

Resolved, "That, for the reducing of Ireland, and joining, this ensuing year, with their majesties allies abroad, in a vigorous prosecution of the War against France both by sea and land, a Supply be given to their majesties, not exceeding the sum of two millions, to be added to the public Revenue."—Which was agreed to by the house nem. con.

Debate on the Bill of Rights.] Nov. 6. An ingrossed Bill for establishing the Rights of the Subject, was read the third time.

Sir *Edw. Seymour.* I find in the latter Clause of the Bill a power in the king of dispensing, &c. If that be admitted, all the rest is nothing. I would advise not to part with the Money-bill till this be perfected; let it lie upon the table.

Sir *Edw. Hussey.* There is a Clause in the Bill, that I do not understand; 'That no Papist shall succeed to the crown, none of the Church of Rome, and no Protestant shall be put by. If a Protestant be a reputed Papist, he shall be put by.' Charles 1. was thought a Papist: Charles 2 by many was reckoned popishly affected; and I fear, as there was Spanish gold stirring in court and parliament, in James 1's time, why may not these things happen again? I hear of no Test to the king to distinguish him from a Papist; must the muzzle be set upon the king when the council please? This may prevent a Lutheran from coming to the crown, because he comes not up to all the points of our religion. I fear, it may be like the Bill of Oaths, which the greatest lawyers of England understand not. There is a clause in the Bill, 'That the king shall not suspend laws, &c.' What if a murder be committed and a man wrongfully condemned, shall he be hanged for want of the king's power to pardon? I stand not up to oppose the Bill, but I would have it explained and moderated. —The Bill was then passed, nem. con.

Debate on Major General Ludlow's coming to England.] Sir *Joseph Tredenham.* I hear that major-general Ludlow * is come into England, and is in town, and that his old accomplices do comfort, aid, and abet him. By act of parliament he is attainted, and is a declared enemy to the king and kingdom. To what end do we raise taxes upon the people, but to support the government? To what can these persons pretend, but to bring us into the same anarchy as formerly? Now we are setting things in order, they are contriving to make us victims to their passions. I am for the public security, and it is to that end I stand up. I would address the king to issue out his royal proclamation, to command him out of the nation.

Sir *John Guise.* I offer it to your consideration, whether any body will make it appear that Ludlow is here?

Marquis of *Winchester.* 'I think it well moved. The gentleman at the bar tells you, that he walks in the face of the nation. 'Tis necessary the gentleman should give you Information. I know nothing of the person. My family, I am sure, has suffered in king Charles 1st's time.† I speak nothing of the man but for your justice.

* "Ludlow had been a ringleader of the Republican party in the Civil Wars, had distinguished himself in the battles of Edge-hill, Newbury, &c. and he was also one of king Charles 1st's Judges. He served afterwards under Cromwell as lieutenant-general of horse in Ireland, and had a great share in the reduction of that kingdom. At the Restoration he found means to escape to France, and from thence went to Lausanne in Switzerland, where he resided many years. He afterwards removed to Vevay, where, in spite of many attempts that were made to assassinate him, he not only survived king Charles 2, but lived to see the ruin of king James 2, by the Revolution, in which he earnestly desired to have been assistant; and left his retreat at Vevay, and came to England, in order to exert his old-age in that cause; having some expectations of being employed in Ireland, against the popish and other adherents to the (as he styles him) 'abdicated king.' And with this design he ventured to appear openly in London, &c." Biograph. Britann.

† His grandfather John marquis of Winchester, made a garrison for king Charles 1, of

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Mr. Hawles. I do not see how Ludlow comes to be so considerable a man as that this house should address the king about him. Every private man may attach him. He is attaint upon record. Many have been guilty of murders; you have said so, and yet they walk abroad.

Mr. *Coningsby.* I think it the strangest thing that ever was heard of a parliament sitting, to suffer one to face you that is attainted by parliament. Upon this extraordinary occasion, do an extraordinary thing, and address the king, as is moved.

Col. *Birch.* I am in a new perriwig, and pray let the house look upon me before I am heard. For this person to come in the face of a parliament, is a horrid thing, if it be so. I am curious to know whether he be here, or no. Pray let somebody avow him to be here before you make the order.

Resolved, "That an humble Address be presented to his majesty, that he will please to issue out a Proclamation for the apprehending colonel Ludlow, who stands attainted of high treason, by act of parliament, for the murder of king Charles 1: And that he will please to propose a reward to such as shall apprehend him."—Ordered, That the said Address be presented to his majesty by sir Edw. Seymour†.

Debate on Attaching lord chancellor Jeffreys.] Col. *Tipping.* The late chancellor Jeffreys died in his bed, with so much guilt of murder upon him, and the house sitting. 'Twas he that voided the Charters, and backed the Judges in the Dispensing Power, and in it passed sentence on all your laws and liberties. He had his hand in lord Russel's and col. Sidney's blood, and executed sir Tho. Armstrong, by a rule of court, expressly against the statute of Edw. 6. Innocent blood he sought for, and condemned; as Mrs. Lisle, for harbouring a traitor knowing him to be such, and he knew he was not*. He has raised his estate on the ruin of the laws. His estate and honour are the price of your blood. I move, That you will attaint him.

Mr. *Coningsby.* It is all one, for a man in a gown, or a man with a sword, to ruin your laws. I would reduce him to that state he was in before he did these villainies.

Resolved, nem. con. That a Bill be brought in for the forfeiture of the estate and honour of George late lord Jeffreys, † baron of Wem,

his fine seat at Basing, which endured a two years siege, from Aug. 1643 to Oct. 1645. But at last it was taken by storm, with himself in it, with about 400 persons, and was burnt to the ground by the enemy, having found in it of money, jewels, &c. to the amount of 200,000*l.*

† This Address being presented the next day, his majesty, without any hesitation, returned this Answer: "That the Address was so reasonable, and the desire so just, that he would order a proclamation to be issued out immediately for that purpose." See the Journal.

"But Ludlow, as soon as he was informed of the motion, had hastened to the sea side, whence, after waiting near a fortnight for a good wind, he returned to Vevay; where he continued till his death, which happened in the year 1693, and in the 73d of his age. His Memoirs were first published about five years after his death." Biograph. Britann. ubi supra. Sir Edward Seymour was particularly zealous against general Ludlow, on account of his having a grant of the general's forfeited estate in Wiltshire.

* "Her husband had been a regicide, and was one of Cromwell's lords, and was called lord Lisle. She was a woman of great piety and charity. The night after the duke of Monmouth's defeat, in 1685, Hicks, a violent preacher among the dissenters, and Nelthorp, came to her house. She knew Hicks, and treated him civilly, not asking from whence they came. But Hicks told what brought them thither; for they had been with the duke of Monmouth. Upon which she went out of the room immediately, and ordered her chief servant to send an information concerning them to the next justice of peace, and in the mean while to suffer them to make their escape. But, before this could be done, a party came about the house and took both of them, and her for harbouring them. Jeffreys resolved to make a sacrifice of her, and obtained of the king a promise that he would not pardon her; so she was brought to her trial. No legal proof was brought that she knew that they were rebels; the names of the persons found in her house were in no proclamation; so that there was no notice given to beware of them. Jeffreys affirmed to the jury, upon his honour, that the persons had confessed that they had been with the duke of Monmouth. This was the turning a witness against her, after which he ought not to have judged in the matter; and though it was insisted on as a point of law, that, till the persons found in her house were convicted, she could not be found guilty, yet Jeffreys charged the jury in a most violent manner to bring her in guilty: all the audience was strangely affected with so unusual a behaviour in a judge; only the person most concerned, the lady herself, who was then past 70, was so little moved at it, that she fell asleep. The jury brought her in 'not guilty,' but the judge, in great fury, sent them out again; yet they brought her in a second time, 'not guilty.' Then he seemed as in a transport of rage, and upon that, threatened them with an attaint of jury. So they, overcome with fear, brought her in the third time 'guilty.' The king would show no other favour but that he changed the sentence from burning to beheading. She died with great constancy of mind, and expressed a joy that she thus suffered for an act of piety and charity." Burnet.

† "Jeffreys died on the 18th of April 1689 in the Tower; having, as it is said, hastened his

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late lord chancellor of England: and it is recommended to colonel Tipping to take care of it.

Debate on the Supply.] Nov. 7. The house went into a grand committee on the Supply.

Sir *Edw. Seymour.* The question is, Whether persons liable to the 500*l.* Forfeiture shall be charged towards the raising the Money that you have agreed? I suppose no man but believes, that, before you raise this sum, there will be a great many hardships somewhere. You will not make price of their folly. You know what attempts have been made against our religion and laws; this penalty is no more than what they are liable to already. Nothing can be of greater consideration of justice than to make this a fund. To pay 100,000*l.* a month—a man may live to be mistaken. The prince of Orange's Army, and the other Forces in the West country, have eaten up all the fodder of the last year, and you will have an ill account of that country if a hard winter. I will with chearfulness support the government, but it is reasonable that we pay not the price of other mens follies, while they pay not a farthing to the public charge. As for that law of the Test, the wit of man could not have found out a greater preservative against Popery, and will you let go that impudent action of taking offices without the Test, &c.? Have they deserved this? Were they put in for preservers of your liberties? They may pretend to be defenders of your faith too. You are not at the last end of your tether. I think it reasonable that you should raise these 500*l.* Forfeitures to be applied to the public.

Mr. *Hawles.* I am no friend to Popery; and I do not regard whether papist, or fanatic, break your laws: I would have the laws run upon them. But the proper question is, Whether the 500*l.* Forfeiture will yield what you think? If you run upon every man, I am sure you will never raise it, unless as in the Act of Conventicles, he that is, pays for him that is not, responsible. You must make a new law for persons not qualified, and who have got nothing by their offices.

Sir *Tho. Lee.* It may happen, I think, that a Protestant who would make himself grateful to king James, has done more mischief in promoting the Popish Interest than Papists. Perhaps it will come so hard upon those in Corporations, that it may undo them who have little, and cannot speak for themselves; but how will you distinguish it? Those who had no Offices of Profit, and will now take the Test, I would have them excused, but such as refuse now should pay double.

Sir *Edward Seymour.* I do not understand the reason of that distinction of 'then' and 'now.' The thing they stood upon was not matter of conscience, which is the same now as it was then. Because they carried on the Suspending Power, that has brought us into all this misfortune; I am not for distinction.

Sir *John Thompson.* I wonder the gentleman can remember some and forget others. He speaks of 'the Dispensing Power:' I think they were as great enemies to the government who ruined us on the Prerogative side.—He was taken down to Order.

Mr. *Sacheverell.* I cannot agree to deceive the king, by getting nothing by poor men. You will punish them that did it, to save themselves from ruin. The Papists had another end in it. I do know persons that did come in at that time, that wish as well to the Church of England as any men, who would rather run the penalty than let the Corporation be ruined, and Corporations had been ruined that gave not up their Charters. I can go up to those that made no profit of it, and can freely come in. I mean not, by this, to excuse justices of peace, nor deputy-lieutenants, but poor men in corporations.

Sir *Edward Seymour.* I am sorry Thompson did not go on; but I call to his memory or any man's, to charge me with doing any thing against the interest of the nation, or for any foreign interest.

Sir *William Pulteney.* They were to be prosecuted within six months, who acted in Commissions without taking the Test, and there have been pardons already passed.

Mr. *Brewer.* Whoever transgressed against this law must be fools or knaves; therefore put the question as first moved.

Sir *John Guise.* For ought I see, we need not have put it so far as king James. If the prosecution must be within six months, I would willingly see that.

Mr. *Sacheverell.* If you would put it by a sum, let it be by a quantum of value upon the poor men. I do not except men of authority, as justices of the peace, and deputy-lieutenants, but poor men of corporations. I know not one justice not worth 100*l.* per ann. nor deputy-lieutenant. I know no way but to state it by the sum; put it upon men of 100*l.* per ann. or money in value to it.

Mr. *Garroway.* It is a hard matter to word this question, but I would put in 'privy-counsellors, sheriffs, mayors, deputy-lieutenants, and justices, and all offices of profit.'

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end, by the intemperate use of spirituous liquors. Mr. Tindal adds concerning him, on the credit of sir Joseph Jekyll, late master of the rolls, who had it from the mouth of Dr. Scott himself, 'That while he (Jeffreys) continued a prisoner, he was visited by Dr. John Scott, the celebrated author of the 'Christian Life;' and being urged by him to improve his present situation by a serious review of his past life, he expressed great concern upon the occasion; but with regard to one part of his conduct, which had exposed him to most censure, his behaviour in the West after the defeat of the duke of Monmouth, he declared, that how cruel soever his proceedings might be thought, they had by no means come up to the severity which king James expected from him, his majesty being extremely displeased with him on that account.'" Ralph.

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Sir *John Guise.* There is one you will hardly come at, Charles Frines, recorder of Gloucester. Pray remember his Charge in print. If you go by offices of Profit, that may do.

Col. *Birch.* Do not forget them. I was most afraid of governors of castles, and those in the army; they were most dangerous.

Resolved, 1. "That it is the opinion of this committee, That toward the raising the Supply to be given to their majesties, for reducing of Ireland, and prosecution of the War against France, there be a review of the Poll-Bill: and that the house be moved, that a bill be brought in for that purpose. 2. That, in the same bill, there be a tax of 20*s.* laid upon every shop-keeper, tradesman, and artificer, worth 300*l.* clear personal estate. 3. That, towards the raising the said Supply, there be a Tax of 100,000*l.* laid upon the Jews: and that the house be moved, that a bill be brought in for that purpose."

Nov. 8. Resolved, That it is the opinion of this committee, That, towards the raising the Supply to be given to their majesties, the pecuniary Penalties incurred by all privy-counsellors, lord lieutenants, deputy lieutenants, militia officers, justices of peace of counties and cities, mayors, bailiffs of corporations, sheriffs, recorders, town-clerks, and also by other persons who have accepted or exercised any Office or Place of Profit, either military or civil, other than such as are now officers in their majesties armies or fleet, contrary to an Act of the 25th Ch. 2. intituled, 'An Act for preventing Dangers which may happen from Popish Recusants,' be speedily levied and applied to that purpose: and that a Bill be brought in to that effect.—All which was agreed to by the house.

Nov. 9. The house went into a grand committee, on the Supply.

Col. *Birch.* I have seen an Irish Rebellion before this, in 1640. The Rebellion in Ireland was then quelled out of Irish money and Irish estates. What was then done was by a Bill for Subscription at Guild-hall for so many acres of land on the rebels estates, and other great persons. There was then 370,000*l.* raised upon it. When Charles 2. came in, a Committee of Claims was made. But if the estates of those in arms against the king and kingdom were offered to sale, I think they would raise some money. This I submit to your wisdom. It makes so many friends to the government, and it is their interest. Your enemies, by this, will see you are in good earnest, and that they are no friends to you, nor you to them.

Sir *Tho. Clarges.* In 1641 an Act passed for Proposals in such a province, and so much was given for so many acres. I am for a Committee to receive Proposals, before you make an Act; it is too early for that. At that time, in 1641, we were possessed of Dublin, and other places, and I think, if we do any thing, a Committee should view the former Act.

Mr. *Hawles.* I know no estate yet forfeited in Ireland. In Charles 1st's time, they attainted the persons before they forfeited their estates.

Mr. *Garroway.* You have passed some votes which will not give satisfaction, to come up to your present necessity to raise two millions, by the several projects; we must go really to the thing, and resolve that the land must bear some. I care not which way, so it be done better or worse; therefore say what proportion the land must bear. I propose, that you will raise a certain sum upon the land 1,400,000*l.* by a pound rate, monthly assessment, and debate that.

Mr. *Godolphin.* You are not yet ripe for this question of laying 1,400,000*l.* upon land, but you may be presently; the returns being about making in the exchequer of the 12*d.* in the pound. By that you will know exactly what to do, when you see the duplicates. I believe you must lay 2*s.* in the pound for one year.

Resolved, "That it is the opinion of this committee, 1. That the house be moved to appoint a Committee to receive and consider of Proposals for advancing Money upon the security of Estates forfeited by occasion of the present Rebellion in Ireland. 2. That, towards the raising the Supply, &c. a sum not exceeding 1,400,000*l.* be charged upon land. 3. That the sum charged upon land be raised by way of a pound rate. 4. That the said pound rate be 2*s.* in the pound for one year, &c. as also a farther charge of 2*s.* in the pound upon all such persons as shall refuse to take the Oaths which are appointed instead of the Oaths of Allegiance and Supremacy."—Which being reported, were agreed to by the house.

Debate on the State of Ireland.] Nov. 11. Sir *Tho. Clarges.* If the English army had intercepted king James, we might have had Dublin and Drogheda before they had it. I move, That some persons of trust may be employed to inspect the Army.

Mr. *Garroway.* I move to send into Ireland some persons, not upon recommendation, but persons of integrity, to inspect the Army. I would not have spoken now, but that the Fleet and Army are so out of order, that I know not what they are, nor where. I would have also a true State of the Army in England. I would know what we have to trust to.

Mr. *Papillon.* I move, That you will enquire what Wines and Brandies have been taken as prize, and judged by the Commissioners, that it may be sent into Ireland for relief of the Army there.

Sir *John Guise.* I know not whether the Army ought to be refreshed with that which ought to have been thrown upon the ground. Perhaps there may be some running contrivances to elude your act, but you may, if you please, have benefit by this; perhaps your Army would buy it. I shall not be satisfied to elude your law, but if it be distributed among the regiments that the common soldiers may have the benefit of it, and none else, I am for it.

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Mr. *Garroway.* I desire that some of these gentlemen that tell us of this Wine and Brandy, would acquaint you how they came by it, whether by prize from us, or the Dutch? I can give no vote, till I know how they came by it.

Ordered, "That the commissioners of the customs, and the commissioners of the prize-office, do, upon Wednesday next, bring in an Account, what French wines and brandies, and other French goods, have been taken as Prizes, or have been seized upon by the officers of the custom-house; and where they are, and when taken, and by whom."

Mr. *Sacheverell.* I like the motion well, to inspect the Army in Ireland, which, I hear, is so low that I am ashamed to name them. Notwithstanding the accounts of 36,000, I believe they are not 14,000 men, and we pay for 36,000. I would have nothing wanting of our duty, and to take care that other persons do theirs, to do what we would all carry on, the reducing of Ireland. As for the Fleet, if we have such another summer, it will be in vain for us to be here. I move, That the king would send such persons to inspect the Army and the Fleet, as he does confide in.

Mr. *Ettrick.* Several of your members are in Ireland, men of quality. I move, that they may come over and give you account.

Col. *Austen.* If you have members there independent on all commands, I am for it, but I would understand the members there. If no more than common fame represents, you had as good have none.

Sir *John Guise.* I doubt not but it is absolutely necessary for your service to know the numbers of your forces in Ireland, the Army here, and the Fleet. I hope you will have a good account, as far as relates to England and the fleet, but you have an army in Flanders; that in Ireland is wholly in Mr. Harbord's, and that in Flanders in lord Churchill's, inspection, &c. As for a committee, it is impossible they should give you account, unless some such way be taken.

Sir *Tho. Lee.* The debate now stands, that the Army of Ireland is disproportionable to what you pay; it is proposed to see the musters sent up to the king. For the present, the king is a stranger to England; it is a wonder he knows so much already. It is for the king's service that you make him this Representation; by it he may know what otherwise he could not. He must see with other mens eyes. I see no doubt but the king will appoint commissioners; therefore put it off your hands.

Mr. *Smith.* I would have persons inspect the Army, that have no interest of command in it; they must incur the ill thoughts of the rest, and I think them not safe in their lives by their fellow-officers.

Resolved, "That an humble Address be presented to his majesty, &c. that he will please to appoint some fit persons to go over into Ireland, to take an Account of the number of the Army there, and the State and Condition of it."

Case of Lord Griffin.] The lord Griffin having been often required by letters and otherwise to attend the house of lords, and still refusing to appear, their lordships desired the king, by an Address, to summon him by his royal proclamation to render himself, (at such a day as his majesty should appoint) to their house, if then actually sitting, or to one of the secretaries of state. His lordship being accordingly summoned, surrendered himself to the lord Nottingham, and on the 19th of October, having made his appearance before the house of lords, the Speaker told him, That he knew what he had to do before his sitting in that house; whereupon his lordship desired time to consider of taking the Oaths, he not being prepared for it: which was readily granted.—The same day the parliament was prorogued, a Packet was intercepted, which plainly discovered how little the lord Griffin was inclined to own the present government. This discovery happened in the following manner. His lordship having caused a large tin bottle to be made with a double bottom, ordered his cook to go to a pewterer's at an unseasonable hour of the night, to get the false bottom soldered: the pewterer finding a Packet between the two bottoms of the bottle, began to suspect something; and the cook not giving him a satisfactory answer about its contents, he made bold to open it. The superscription of several letters directed to king James, the duke of Berwick, &c. justified the pewterer's suspicion, who immediately seized the lord Griffin's cook, and carried him to one of the secretaries of state; but he being gone to bed, and his servants refusing to admit the pewterer to their master's presence, the lord Griffin, who by this time began to apprehend what had befallen his messenger, took this opportunity to make his escape. Besides the Letters, there was found an Account of some private Resolutions of the Council, and an exact List of all the land and sea forces of England; whereupon the lord Griffin's house and papers were searched, his lady committed to the Tower, several suspected persons arrested, and the Custom-house officers ordered to stop all unknown persons, that offered to cross the seas without passes. Upon which his lordship, having absconded himself some few days, and finding it difficult to go out of the kingdom, surrendered himself to the earl of Shrewsbury, secretary of state, who having examined him, committed him to the custody of a messenger, from whence he was sent into the Tower. Thereupon the commons appointed a committee to enquire how the lord Griffin came to know a Resolution, which the king had communicated to four persons only; and the lords addressed his maj. to let him understand that the said lord being one of their members, they were consequently his proper judges. The king having left the cognizance of this affair to the peers, they began to examine the Papers intercepted in the pewter bottle, which were the only evidence against the lord Griffin; and because some few days

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before it had been resolved in that house, that colonel Algernon Sidney was unjustly condemned, nothing but writings, found in his closet, having been produced against him, the earl of Rochester argued from a parity of reason, in favour of the lord Griffin; who after several warm debates was set at liberty upon sufficient bail *.

Petition of the Lord Viscount Preston.] While the lord Griffin's affair was depending, the lord Preston, viscount of Scotland, having presented to the house of lords a patent from king James, dated from Versailles the 21st of January, whereby he was created baron of England, their lordships voted him guilty of high-treason; but however, they thought fit to refer the examination of that matter to the Judges, their assistants. My lord Preston pretended, that the patent being dated one day before the meeting of the Convocation, which had voted the Throne vacant, it ought therefore to be valid: to which it was answered, That the Vacancy was supposed to begin from the moment king James left the kingdom, whereby he abdicated the government. The next day the Judges brought in the lord Preston guilty of a high misdemeanour, for which he was committed to the Tower. Not long after, his lordship acknowledged, and begged pardon for his fault, by a Petition to the lords, which was rejected upon his subscribing himself, viscount Preston, without expressing of what kingdom; the next day he presented another, wherein he stiled himself viscount of Scotland; and moreover, it being alledged in his behalf, that by accepting a patent from king James, he never meant an affront to king William, but only to secure his own person from imprisonment, (being at that time prosecuted at law by the lord Montagu for a considerable sum of money) he was released from his confinement, without giving bail.*

Mr. Trenchard and Mr. Hampden sent for by the Lords, touching the Murder of the Lord Russel, &c.] Nov. 13. The lords sent down the following Message to the commons:—"Mr. Speaker, we are commanded by the lords to acquaint this honourable house with this Message, That a Committee being appointed to examine, who were the Advisers and Prosecutors of the Murders of the lord Russel, col. Sidney, sir Tho. Armstrong, Mr. Cornish, and others; and, who were the Advisers of issuing out of Writs of Quo Warranto's against Corporations; and, who were the Regulators; and also, who were the public Asserters of the Dispensing Power; that this house be desired, that Mr. Serjeant Trenchard, and John Hampden, esq.† and such other members of this house, as can inform the lords of the said committee, about those matters, may have leave to appear, when desired, to declare their knowledge therein."

Debate thereon.] Mr. *Sacheverell.* This is a precedent that is very new. I never saw any of the like nature before. It lays a hard charge on you, as if your members never mentioned this evidence to you. The naming these gentlemen in the Message, 'and such other members as can inform the lords, &c.!'—To grant an unlimited power of we know not whom, is not parliamentary.

Sir *Tho. Lee.* I think, the thing is quite new, or out of my memory. I would rather take a day's time to consider of precedents. I cannot agree that it is an original thing (as said) but things of this nature are nice between both houses.

Mr. *Boscawen.* There was a member examined about lord Essex. He asked your leave, when called upon by the lords; and now it is much more reasonable that you should give leave.

Sir *John Trevor.* This is a matter of great importance. I would not deny the lords any thing in which they have a judicial power; if you can give them any assistance, in that you may. Enquire into lord Strafford's Case, and you will find that sir Henry Vane, a member, was examined by the lords*; and some members now in lord Stafford's Case; but it was when the commons were prosecutors. As for proceeding by Bills of Attainder, there are but few precedents, but what have begun here, but those by the king's Attorney General, by the king. I would not have you give up your privilege; but I would give the lords satisfaction, and answer them by messengers of your own, and adjourn the debate till to-morrow.

Sir *Joseph Tredenham.* I would willingly comply with the lords. I hear only of the precedent of the last session; and before you confirm that precedent, by adding another to it, I would consider.

Sir *John Guise.* I know my own ignorance in methods of parliament; but all desire to clear up the dust in this case. Rather than delay it, refer it to a committee, to see the manner of proceeding of the house, and inspect your Books, and we commend it to their dispatch.

Mr. *Ch. Montagu.* I am so far from hindering the information of the house, that I could wish we had begun the enquiry here. I believe the committee of the lords meet not till Friday, and you may consider of it.

Sir *Robert Cotton.* I desire to see a full prosecution of this business. Never were men so illegally prosecuted and executed. But you have had no precedents of this nature, but the sending for sir Christ. Musgrave, and he was named by the lords; and so far I would agree with the lords, to the persons they name; but, as for the other part of the Message, 'That persons at their lordships pleasure may be sent for,' there is no instance of precedents; and

* Life of William III. vol. ii. p. 152.

† These two gentlemen had been accused for being concerned with the duke of Monmouth and lord Russell in the Plot of 1683. Mr. Hampden had been tried and fined 40,000*l.*

* See vol. ii. p. 744.

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seeing you have none, for the honour of the house you ought to consult methods of parliament, and to answer it to those that shall come after us. I move for a Committee.

Sir *Tho. Littleton.* I would not delay it so long as referring it to a committee. The former part of the lords request seems reasonable, and is far from claiming a jurisdiction; but, as for the other part, to examine whom they shall see cause, of your members, I am utterly against that jurisdiction.

Mr. *Hampden.* You are rationally moved, by Littleton, to send no Answer at all to the latter part of the Message.

Sir *Tho. Clarges.* I have a great difficulty upon me in this, concerning the lords jurisdiction. By the Statute of Hen. 4, 'There shall be no more Appeals of Treason of lords against one another in parliament.' But, admitting the lords had jurisdiction of themselves, they have none upon commoners, but, if this may tend to the accusation of commoners, it is against the right of the commons; but if they say it is against such a peer, and such, but to have your members neither to know, whether it is against a commoner, or a peer, I am against it.

Sir *Edw. Seymour.* I came in late, but I collect from the debate, that the lords desire Trenchard and Hampden to attend the lords, and give evidence of the authors of the murders of lord Russel, &c. the advisers of the Quo Warranto's and Regulators of Corporations and any other member to attend their lordships, when desired. I think this of that importance to the constitution of parliament, that you cannot find one instance of that kind. When an accusation has been from the commons, then you have permitted your members to give evidence to the lords, but upon an original cause from the lords.—If you examine upon the legislative, you are upon equal footing with the lords; but will you submit and subject yourselves a degree lower, having no precedents to warrant your proceedings? I hope you will be tender how you admit it.

Mr. *Hawles.* 'Tis said, 'There is no precedent of this Message from the lords;' and, indeed, there is no precedent of what has been done lately in the abominable Trials. It is certain that a member may accuse a lord, and certainly there is no manner of mischief in this, but to do a great deal of good.

Sir *Tho. Lee.* I desire gentlemen would think how little things draw great consequences; if gentlemen see what they are about to do, perhaps they will not do it. I think I have read, or heard, that, in former times, the lords sent to the commons to persuade them to the necessity of giving Money; the commons would not confer with the lords about it. You may remember Skinner's case.* The lords tell you, now, they are doing a thing that is the greatest matter in question, whether they can do it; and when you make yourselves a party, and consent to it, I know not how far it will go. It will be, or not be, as the lords shall think fit. In Fitzharris's Case, at Oxford, the lords would not accept your Impeachment.† I would keep gentlemen on the ancient foundation. This case is an enquiry into matters criminal. I know the consequence of the Quo Warranto's against Corporations, and no man is so brutish as not to abhor the murders of lord Russell, &c. but if the lords take upon them to make enquiry into that which you have power to do, and ought to do, they may, perhaps, bring a commoner summarily to be tried at their bar.

Mr. *Hawles.* Appeals were taken away by the statute Henry 4. of one lord against another in parliament, for Treason; but still there are for murder and felony. Appeals for treasons are always in parliament, and are to be tried by battail. If a man was antiquated, above sixty years of age, he was not bound to battail, nor a woman. But there is no colour that that statute took away Impeachments in parliament. I would have these persons, desired by the lords, have leave to go.

Sir *Henry Capel.* I know, whenever Privilege comes in debate, that it is a very tender and nice thing, but I hope it shall ever be for the preservation, and not destruction, of the government. I would not carry privilege to that excess to prevent common justice, that it may be obstructed. In this case, where you have reserved Attainder of these persons, I hope no Privilege will take place. I think this is no original cause from the lords. I think the peers, as part of the legislature, have power to enquire into these things, as well as the commons. Here have been charters and mens lives taken away, and ill returns of members designed, and your laws destroyed thereby, and no remedy. It is said, 'There is no precedent for this, &c.' but there is a precedent the last session: sir Christ. Musgrave, and sir Philip Howard, attended the lords, to give evidence in the case of lord Essex. As for a committee to consider this, it is a delay to the enquiry, and we ought to show our readiness to the lords in it.

Sir *John Trevor.* I would know the date of the Message; if it bears date now, it is a small delay for a committee to consider it till to-morrow morning. Is it not better to allow the small delay till to-morrow, than to divide the house upon it? And the Yeas must go out.

Sir *Robert Howard.* It has been said by some, 'We must agree to all the Message, or none.' Skinner's case was most foreign to this, for that was point of property, which might have had remedy in Westminster-Hall, and was an original cause from the lords. Can this be a prejudice to you? But this will be a deep one; when you will do nothing yourselves in it, and hinder the lords from doing it. 'You have heard a great deal of this matter,

* See vol. iv. p. 422.

† See vol. iv. p. 1332.

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and let all pass, and the lords think they can do something in the discovery, and the commons delay contributing to it.' This will be said.

Mr. *Hampden.* The question is not properly 'Agree or not,' but you may divide the question. I am for maintaining all the privileges of the house, but you have none for obstructing justice. Our common law is founded upon eternal maxims of reason of any municipal law in the world; the civil law, the municipal law of the Romans, was so. When your privilege stops justice, it is time to hinder it. In the Popish Plot, the lords sent for some of the commons to give evidence, and particularly in the case of sir Edmundbury Godfrey, the lords sent for witnesses perpetually. The thing is not judicially before you. In lord Bristol's Case, accusing lord Clarendon, the lords over-ruled it, 'That a lord could not accuse another in parliament.'* In such cases, when the lords desire evidence, and you plead privilege, I could wish privilege out of doors.

Resolved, "That leave be given to Mr. Serjeant Trenchard, and Mr. Hampden, jun. to attend the lords.†"

Mr. *Sacheverell.* Now you have given leave to your members, the lords will easily understand it, but leave it an indifference for any to go that will.

Debate on the Merchants' Petition against Captain Churchill.] Sir *Robert Clayton.* I am sorry for the occasion of this day's consideration. Lee has told you, 'That no complaints of captains misbehaving themselves had reached the Admiralty.' I could wish it had reached no other mens ears. Merchants are forced to hire Dutch capers, much cheaper than they can get our own, for convoys. The merchants tell me, 'They will give you proof, and produce receipts from captains of Convoy-money, of above 300*l.* I have a Petition from some merchants; they are ready to lay before you matters, with fair proof, of refusing convoys, without great reward, and are ready with evidence.

Sir *Robert Howard.* Now we are come to a point, and a great one; therefore, I move, That the Speaker may take the Chair, to receive the Petition.

Sir *Tho. Clarges.* Whether we had ill conduct of deceit, I will not determine, but I am sure we are very unfortunate, when a great fleet is in harbour, and lies there, and consumes all its victuals, and no account of its service. Your men are debauched, and the captains come to London to riot, and never went out to cruise, and no advantage is taken of that Fleet. You have heard of want of convoys; though this of trade is the life of the land, yet we are over-reached in treaties. The Dutch are at a fifth less charge in men than we. I could wish our debate would tend to a remedy for the time to come. I have heard of ships that have lain a year for a voyage, and the captains have taken all their men, and the ships have been lost. Formerly we had men sufficient to carry on the war, and yet carry on our trade. The Dutch are our great competitors in trade, and we join with them in war. I think, at least, we ought to prevent these mischiefs for the future. There was a time when the government of England, though an usurpation, had the French, Spaniards, and Hollanders, all enemies. Their fleet was executed by commission, not by one admiral, but it had three, Blake, Deane, and Popham. As far as my prudence reaches, I would not commit the Fleet to one admiral, but to three.*—The Speaker resumed the Chair.

Sir *Rob. Clayton.* I have here a Petition from Merchants, who have had to the value of 600,000*l.* taken from them by pirates, and French capers. If you please to give the merchants a day, they will make out their complaints. Many have been taken within sight of land, betwixt Scilly and Plymouth, and the French have done it.

Mr. *Garroway.* When the Petition was opened, you were told of Convoy-Money: I would have the Petitioners called in, to aver the giving of Convoy-Money.

Sir *Rob. Clayton.* Give them time, and they will prove it.

Sir *Thb. Lee.* I would have them called in,

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* See vol. iv. p. 283.

† "The commons gave their consent, and the said two members did give their attendance accordingly: but though they had both partaken so largely of the same persecution, and Mr. Hampden in particular had all the reason imaginable to contribute all the lights in his power, as having been chiefly brought within the reach of it, by the Artifices of the marquis of Halifax, (against whom, in the first place, the enquiry was intended) neither of them now appeared in a disposition to take the revenge which seemed to be in their power: of Trenchard's informations no memorial remains: and of Hampden it is only said, That he made a long speech, tending more to magnify his own concern in the Revolution, than to discover the advisers of lord Russell's Murder. Sir Peter Rich, col. Godfrey, and Mr. Anthony Row, all members, were also called upon by the lords, to declare what they knew concerning the several points, before the committee; nor was any other person omitted, who had either acted in, or suffered under, the violences of the late times: it was the business of the latter to accuse, and endeavours were used to make the former confess: but these were too much upon their guard, and those were so defective in their evidence, that, as bishop Burnet observes, though the enquiry lasted some weeks, and gave occasion to much heat, nothing appeared, that could be proved, upon which Votes and Addresses might be founded." Ralph.

* It was committed to three in 1690, viz. Delaval, Shovel, and Killigrew.

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to inform you of getting Foreigners to convoy them, and giving money to our captains to convoy them --They were called in.

The *Speaker.* What sums of money were given for Convoy, and to whom?

Answer. "Captain Churchill,* of the Pendennis, convoyed 20 ships; before he would take them they paid him, some ten, some eight guineas. Emanuel Hudson paid him 40*l.* for himself, and four more. I have showed the receipt of 40*l.* to sir Patience Ward, by captain Churchill, for Convoy."

Sir *Patience Ward.* Capt. Churchill would not undertake a Convoy without 300*l.* and because he could not have the money he pressed his men; and the ship, for want of men, was cast away.

Mr. *Garroway.* The convoy is only from the Land's End to the River. If there be but this one case, it is well; but if there be more, give them till Monday.

Mr. *Hawles.* To give a gratuity for a present, when the Convoy goes off, is ordinary; but this was paid first, by agreement.

Sir *Edw. Seymour.* Before you leave the chair, I have a short motion to make, which, I hope is for your service. By what I have heard, I find the state of the nation is in ill condition. It is a large field, but one thing is manifest and notorious, the loss of trade and treasure, by neglect of guarding the sea, whether by ignorance of the admirals in general, or by particular mismanagements.

Mr. *Garroway.* If you put it 'To enquire into the mismanagement at sea,' your order will be too narrow; but put it 'for want of due guarding the sea.'

Sir *Tho. Lee.* I do not know gentlemen's meaning, nor how far losses at sea, and due want of guard, will extend. Losses may be, and yet good fleets at sea, and you masters of the sea. Great numbers of ships were lost when the French fleet came not out. If merchants will go ship by ship, and not by company, all the fleet cannot protect them. For my own part, I will own my ignorance: gentlemen that know as little as myself, have got ten times more of the government than I have.

Admiral *Russell* † It being a question Whether the fleets were sufficient to keep the French from coming out, they lay so long, that it was judged by seamen fit for us to go in. It is said, 'The fleet last summer was of no use; but you did not only keep the French Fleet in, but went to Ireland, a dangerous coast, and kept and prevented the French from landing men and money. I think that was service in your fleet. It is impossible to guard all places, but if your merchants will venture, they cannot be guarded. If it appears to be thus, I think the question better let alone.

Sir *Samuel Dashwood.* I can justify it by persons that the Sugar-Fleet lost seven ships. The lords of the Admiralty were acquainted that the Fleet was in danger, that lord Berkeley might stay for Convoy, but the admiralty commanded Berkeley home: and I think the loss was for want of convoy.

Sir *Tho. Lee.* Every fault is great, till understood. I think I may agree with the gentleman in what he said. The thing, in plain English, was thus; such ships as were fit to keep the sea, and not sick, were ordered to cruise, to do some service of importance. The king commanded lord Berkeley to come in, and refit, and victual; these were to take more men on board, for some extraordinary service in Ireland.

Mr. *Papillon.* I hear it said, 'More service was done in keeping the French from Ireland than saving seven Sugar-Ships;' but I would know why provision was not made for both, trade preserved, and Ireland guarded? But it is demonstrable we lost our ships for want of guards.

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* Member for St. Albans, and next brother to the earl (afterwards the illustrious duke) of Marlborough. He was many years a gentleman of the bed-chamber to prince George of Denmark, and this year (1689) had commanded a squadron on the coast of Ireland. After this he was appointed a lord of the Admiralty, and in the reign of queen Anne he was made admiral of the blue, and one of the council to prince George. He died in 1710.

† "One of the chief promoters of the Revolution, being sent over to the Hague, the May before, by many of great power and interest in England, to speak very freely to the prince, and to know positively of him what might be expected from him. He was a cousin german to lord Russel. He had been bred at sea, and was bed-chamber-man to the king, when he was duke of York; but, upon lord Russel's death, he retired from the court. He was a man of much honour and great courage; he had good principles and was firm to them." Burnet.—He went over to the Hague again in September (accompanied by the earl of Shrewsbury) and came over to England with the prince. In 1690 he commanded the Fleet, and in 1692 obtained the memorable victory at La Hogue: notwithstanding which, and though his fidelity, courage, and conduct were justified and approved by the house of commons, the king was so prejudiced against him, by the earl of Nottingham, that he dismissed him, soon after, from his service. In 1694 he was restored to favour, and commanded a large fleet that year, and the next, in the Mediterranean; and in 1696 disappointed the French invasion. In 1697 he was created earl of Orford, and was, at the same time, both Treasurer of the Navy and first Lord of the Admiralty. Being impeached by the house of commons in 1701, he was unanimously acquitted by the lords, and his accounts, as Treasurer of the Navy, were justified in 1703. He was again placed at the head of the Admiralty in 1709, from which he withdrew the year after, and died without issue in 1727.

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Sir *Tho. Lee.* I think myself as little concerned as any man. You are told, 'both, &c. might have been taken care of;' but I think it could not. It must be remembered, that the Streights Fleet are refitting, and Berkeley's in harbour, which make up twenty-seven or eight: so that number being added to Berkeley's and those designed for the Indies and Streights, I think the Admiralty not much asleep in the service.

The Petitioners being called in, were ordered to attend on Monday; and captain George Churchill, a member of the house, had notice to attend in his place at the same time.

Debate on the State of the Nation.] Nov. 14. The house went into a grand committee on the State of the Nation.

Mr. *Howe.* I think the question is, Whether the Merchants were lost for want of being kept, as the Chairman states it? I would consider every part by itself: 1. That the Miscarriages are faults, and not misfortunes: 2. How the Toulon Fleet came to join the Brest fleet, and, 3. How king James got into Ireland. Not guarding the seas has been a great fault. If the admirals are in fault, put them out; punish them. When the men were to go into Ireland, there was nothing to transport them, and no provision for them. Name the persons that are to blame; come to the root, and that is the way to cure the branches. Provisions were faulty, and, in some places, none to be had. No man can be angry with a man for getting a good place, or buying it cheap; enquire into those who put them in. Scotland is in ill hands; in Flanders we pay for 10,000 men, and have not 3000. These little things moved are below us. At the good spring in Hyde Park, if one pipe runs muddy, then cleanse it; but if the whole spring runs muddy, we shall think somebody stirs it with a dirty stick. I do not like shooting cannon at sparrows.

Sir *Tho. Clarges.* I think the Trade of the nation is no 'sparrow.' You are told of a 10*l.* convoy, &c. is that nothing? I know no greater offence in the government than raising money on the subject; it is an obstruction of trade, and a great Grievance, and we must look for a remedy. The great end of enquiry into these matters, is to prevent coming into them again. I move, That the question may be, 'That the not guarding the Seas, is an obstruction of Trade, and a Grievance to the Nation.'

Sir *Joseph Tredenham.* I think nothing will more satisfy the people, than to let them see that we do it for their benefit, that they may pay taxes more easily. I move that it may be represented what an ill state we are in.

Sir *Tho. Clarges.* If it be a Grievance that trade is obstructed for want of Convoys, you ought to declare it so. What else would you redress? I lay no imputation on gentlemen; I do not arraign the thing; but the loss of seven or eight vessels is an inconsiderable thing: and you will be at the same pass next year. Call it a Grievance, and put your stamp upon it.

Sir *Tho. Littleton.* If you can find out persons, punish them; but, in the mean time, find out the thing. When you have found out stations for Ships, as merchants can best inform you, if you apply to the king he will remedy it, but not to pick holes in the government.

Sir *John Guise.* Do you think this will make more discontent in the nation than is already? Every sea-port knows and speaks it. I have heard, and am afraid, that when the French came out, some of ours came in. If you believe that was so, that your Ships were called away, and your Merchants left, you may resolve it. I am afraid the removing those ships was the loss.

Col. *Birch.* We all agree, that one such a year's war more will make an end of you. In short, from one end to the other, there is no part of what we have done this year that will serve our turn the next year. It is not as formerly, when care was taken to suppress that debauchery that is now, both in the Navy and Army, and till you suppress damning and swearing: [He was called to name them.] He replied, Pray name them that do not—not to talk of spending 500,000*l.* in the tail of the year. Formerly, Merchants were hired and sent out, whose interest it was; they paid them well, and the sea was well guarded. They did not do as they did this year, pack them up like herrings in a barrel; they brought the nation to that greatness, that all the world durst not look us in the face. Then Money went out carefully and regularly. Sometimes the Commissioners went as low as Chatham, and then they did more in two months than now in twelve. If this is the thing, what do you enquire after? Part with your Money, and wait better luck. That 18 or 20 French ships should come from Toulon to Brest, and nobody hear of them! Pardon that piece of ill luck in our people, to be asleep all that while. It looks like something either to weaken you, or to bring you to a Treaty with the French. These men formerly would have been at Cork or Kinsale in all this time, and made it but an hour's work. As for the question, 'That the Sea has been ill-guarded,' it is part of our bad luck; but I care not much that you should put it, for they tell you, 'Those were called back by the king's command;' but to send none in their place,—I believe his majesty a prince of better conduct than to aver such a thing. If gentlemen agree with me, that neither our conduct nor way of fighting, are fit to be done again next year, we must have other hands next year, else the game is up; had you other hands, I would give my consent to hang good numbers. To have shoes made by a joiner! Men may be gallant, but not skilled in sea-matters till they know. You need not press Merchant-Ships; they will come in; but I will speak no more of men I do not know. Had we Tarpaulins to command, we should, next year, have something like something.

Admiral *Russel.* I know not well where to begin. I have had the honour to be long in

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the navy, which seems now charged with ignorance, cowardice, or corruption. I am willing to decline that service, and had I thought I could not have been serviceable to the government, my own condition is so easy that I might have declined it. It is said, 'When the French came out, we ran away.' These are hard things, and men will justify themselves from this hard imputation. We lay on the French coast six weeks, and, I believe, for the most part, not three leagues from Ushant. We lay there as long as weather would permit. We are accused of 'letting the Toulon squadron join the Brest.' We had no way to know it but by scouts. There are foggy nights, weather, and winds, that carry us eight or ten leagues from thence. Nobody that served in the Fleet but was desirous to prevent this, as any gentleman here. I attribute this to misfortune only. Unless we should pull the French out of port by the ears, I know not how to have fought. I do aver this, that fifteen days after we left Brest, no ship came in there. I desire that either these things may be proved, or these reflections laid aside.

Mr. *Hampden.* Nobody is more ready to redress Grievances than I, and I would have you take some way to redress your Grievances. I would have all persons speak without passion or reflections. In the Letters that were intercepted you find it said, 'That though it was a cold season, yet it was like to be hot weather in this house.' And nothing but personal reflections will do it. If you go and look back to Miscarriages, set your bounds how far you will go. I have never meddled with persons in this house for this 30 years. If you will look back, say how far. I know not whether the Fleet be weak or strong. That the French are too strong, is as much the cause as you too weak. Who would have thought of this formerly? I say, this greatness came from the Pensioner-Parliament that sold their country. Their greatness arose from our treachery. That there is treachery now at sea, is the complaint; the reason, because there are too many Votes on the other side. Can a house, and a family, and all, be removed on a sudden? There is something to be indulged in this. I never had employment nor money before. I have got nothing, only I desire quiet with my neighbours. I do not only serve the king as my prince, but (pardon the mean expression) as one whom I love. Be pleased to agree what you would have done, without personal reflection.

Col. *Austen.* It has been asked, 'To what time will you go back for enquiry into Miscarriages?' It has this answer—as far as the necessity of affairs will lead you. In a private family, if you entertain all those old servants that have ruined you before, what can you expect? I remember Howe told you of awls and bristles in a shop; you would not think a painter but a shoe-maker was there. If you hope for better management, these journeymen, and their tools too, must be laid aside.

Sir *John Trevor.* The State of the Nation you are now to consider. Great mismanagements have been, whether by mistakes, misfortunes, or corruptions. We can have no remedy but from the king; therefore I would have the house moved to represent to the king the State of the Nation; and then you may come to the Heads, and the first moved to be voted the first Head; and then whether any thing amiss in relation to the government, to bring it in, whether in the disposition of the Army, or the Fleet before Brest; and, in the last place, to offer your advice to the king how these things may be remedied. You need not call these things Grievances; they will be so manifest they will call themselves grievances. Howe would find something against these persons in the government; but to go back and ravel into, that will never have an end. I would not be hollowed off from one thing to another. It is 'the present State of the Nation' is our business. Though we go several ways, yet all are for regulating affairs to keep out the French and the Irish. Till you have Reports, from Committees, of the several branches, I would adjourn the debate, and make report to the house of what you have done.

Sir *Tho. Lee.* I am unwilling that these things which will naturally follow should be called Grievances. It is as natural that trade be obstructed, as that you make war; and all you can do cannot prevent ships being taken. You may say as well, the French war is a Grievance. I will not conceal faults, nor say there are none, but I think the nation cannot bear the expence long. That which I move you is to search the Admiralty-books, and compute all, and then you will see how the Money went away. I stand up only that I would not have any outcry against the government. That which is done could not be helped. You are at war with one kingdom, and have another to conquer. I desire, whatever censure you pass, do it as it deserves, when you have examined all; if you make men unable to serve the king, you stop the war. I move, That you will appoint a Committee to search the Admiralty-books for their orders, and numbers of ships, and see the state of the ships, and then give your judgment.

Mr. *Elwill.* It is a strange thing we should have so many ships at sea, and never meet any French ships; and it is strange doctrine to have so much loss by capers of six or ten guns; and if we cannot fortify ourselves against capers, how shall we against men of war? If the committee will enquire into the numbers of ships for stations, that will be your only way to secure trade.

Sir *Edw. Seymour.* By the debate of the committee it is difficult for me to know in what manner to apply my discourse. I know not what ill-luck there is without doors, but I am sure we have it within, when there are personal reflections. Our treasures are spent and turn to little account, and those Mis-

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carriages are repeated. It is said, 'Our ships are taken by privateers, and not by men of war.' We had enough to have cleared our coasts, if they had been sent out to lie in a line of battle. We are told, 'We may repair to the Admiralty-books to be informed, &c.' If once we have loss of Trade for want of Convoy—You will see by the Admiralty-books what ships have been appointed for Guards. If we confirm these Miscarriages, we invite the same to be done next year. Because of the misfortune in another government, what did it occasion, but the loss of that government, and an abdication of a king, a thing never heard of before! But you will find that parliament called a 'Pensioner-Parliament,' were enemies to France and Popery. I hope there are no Pensioners in this parliament, but I am sure it is full of Officers, and an 'Officered-Parliament;' and now we speak of Miscarriages, we are told, 'That is branding the Government, and reflecting;' pay your Money, and that is *omnia bene*. I heard it once said in the Long Parliament, by sir Edw. Baynton, 'That he heard things that would make a cat speak;' but, before God, this makes me speak. I move, that you will vote, That the not guarding the Sea is the occasion of the decay of trade, and loss of treasure;' and then in time you may look into the Admiralty-books. As for admiral Russel, I believe him the last man that would do ill in the Navy, and the last man that can be reflected on.

Resolved, "That it is the opinion of this committee, That the want of a Guard, or Convoys, for the Merchants, for the last year, hath been an obstruction of Trade, and an occasion of great losses to the nation." Which was agreed to by the house.

Debate on disfranchising the Borough of Stockbridge for Bribery and Corruption †.] Nov. 15. Sir *Wm. Williams*. For us to quarrel with our own elections, who serve for boroughs, and to add the boroughs to counties, is a matter of great weight, and deserves consideration. If the constitution had been so from the beginning, much might be said for it. I hope, at this time of day we shall not alter the constitution of England. You are a wise parliament, and this is a thing of the first impression. You break the ice by this, and give a handle to throw boroughs into counties; and another parliament may throw counties into boroughs. I move, That you will adjourn the debate.

Sir *Edw. Seymour*. I am very tender in any new proposal, that changes the order of your constitution. The best way to preserve it is to put it upon a right foot. That one of the third parts of the state should alter any thing of the whole, is strange. But gentlemen forget their constitution of knights, citizens, and burgesses! Burgesses are for manufactures, and other advantages; they may present you with what may increase them. Instead of giving money to be chosen, you would find it otherwise, when boroughs shall give wages. Is that the guide of the legislature? The consequence of that will be, the other boroughs will be terrified. If men must buy to come hither, they will sell when they come here. This borough paid but nine pound, the last tax, to the government.

Mr. *Hawles*. They in this town that have taken Bribes have offended highly. When the Long Parliament made the government a Commonwealth, they disfranchised all boroughs, and diminished the numbers of parliament-men. I think doing that would alter the government. Therefore I would take some time to consider that before I would do it.

Mr. *Foley*. This case is of great consequence, and you ought to consider of it. The Records show, that towns have desired to be excused from sending up burgesses by reason of their poverty, not being able to pay wages. Suppose you suspend this town from sending burgesses till they have got a better body of men to elect. I would consider it.

Sir *John Trevor*. I never heard of boroughs dissolved before. I am afraid, if this question pass, you, Mr. Speaker, and I, shall sit no more in that chair. I have the honor to serve for a borough in Devonshire (Beeralston) for which I am obliged to a member of the house, (Maynard) and to the gentlemen of that country. If you break the ancient constitution of elections, I know not the consequence. If the offence of this borough be Corruption, it is the highest. That boroughs have, upon their own desire, been exempted, there are a great many precedents. In the Long Parliament many boroughs were revived. This house voted it a franchise, and not forfeited by disusage, being inherent in the body of the people, declared upon a contest betwixt the king and the parliament in 1641, and many wise men were in that parliament. The security of the nation was ever thought in the mixture of this house. What shall then become of merchants, to inform you of Trade? The house stands upon ancient constitutions, and I hope you will not remove old land-marks.

† It appeared, on the Report from the Committee, that both the sitting member, (Mr. Wm. Montagu) and the petitioner (Mr. Strode) had been guilty of Bribery; and thereupon the opinion of the Committee (with which the house agreed) was, 'That neither of them was duly elected, and that the election was void.' The bailiff of Stockbridge, and three more, for giving and taking of Bribes, were ordered into custody of the serjeant; but the question for disabling Mr. Montagu from being elected a burgess for that borough in the present parliament passed in the Negative, 158 to 135. The question that followed, and which occasioned the above debate, was, 'Whether the said Borough should be disfranchised for ever hereafter from sending burgesses to parliament; and, instead thereof, that two more knights for the shire be chosen for the county of Southampton.' See the Journal.

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Mr. *Finch.* Though this is a poor borough, and Bribery has been found in the election of members, yet the disfranchising of it carries a great consequence. This is not the first poor borough guilty of Bribery; but it happens to be first questioned; and shall all the poor boroughs be disfranchised, because this poor borough has been guilty of corruption? At Westbury, formerly, there was Bribery, and the mayor was fined; had there been reason for it, it would have been disfranchised. Before you make this first step, pray consider of it till Monday.—Which was ordered. It does not appear by the Journals, that the matter was revived.

Debate on the Defect of Ordnance, &c.] Nov. 16. Sir *Henry Goodrick.* I am to acquaint you with that which admits no delay, and if not speedily taken care of, no man in England is safe. With the king's leave, (I durst not else) I must acquaint you, that there is a Petition to the Office of Ordnance from men of great quality and esteem, from all the powder-makers of England, (I do not charge this upon any particular person, but I hope you will not let the king want) from the gun-smiths, the ironmongers, the salt-petre men, gun-powder men, matchmakers, &c. desiring to be furnished with Moneys to support their credit. The Board of Ordnance has not been deficient, but the king's service cannot be pursued without your assistance. Those powder-makers who belong to the several counties have made 24,000 barrels, of which a great deal is lost and spent. You cannot depend upon more than 600 barrels, all the work standing still. They want but one single Vote of encouragement. You want all this to set out your men of war. I see an hon. gent. who can tell you how those guns have been directed. It is of great importance: the Petition is from men of great credit. The store is so low, there is not above 30 ton of brimstone. The Merchants have sent word to the Office of Ordnance, that they will have 20*l.* a ton; and now they refuse to enter into any contract at all; without something of your encouragement, it will be lost. I move you for a special Committee to enquire, and a Note for encouragement.

Sir *John Guise.* I now hear what I have seen a good while. You give Money for the war, and you know not whither it goes. If to the Navy you transfer credit, look where you will, you find it not disposed as you intend it. The best thing you can do, is not to see your Money diverted. I hope you will give some encouragement to these men, and appoint a Committee to know the State of the Account of the Nation, and you will see those that are honest.

Mr. *Hampden.* I agree with the premises of that gentleman, but not the conclusions. Your Money has not been diverted from the Navy, Army, nor Ordnance. The king has not received by 150,000*l.* of what you have appropriated. If you enter into a war, and your money does not answer, you cannot be served. If you appropriate the money, I hope it will not be to all the uses, for then the offices must stand still. If it has been embezzled in Musters, enquire into it. Suppose now a great deal of money is wanted at the Ordnance, there is 25,000*l.* laid out upon salt-petre, if this money has been diverted; if soldiers had robbed and stole, and entered upon gentlemens estates for want of money—I can make out that many a 10,000*l.* is come short of what you have given.

Mr. *Garroway.* I did not expect any thing of this, this day. When we computed the charge of the War, we did include the Office of Ordnance, and now they cannot carry on the war without more money. There were Stores in the office, and we have had no fight. I have heard of debts upon an old foot of account. I would know whether this is upon the new or old account.

Sir *Henry Goodrick.* The Office of Ordnance has avoided all manner of account of charge. All this now demanded is made within the compass of one year, there has been such extraordinary emption since. There is no old debt at all of sir Thomas Chichley's time, but this is for Stores actually since 'twas in this king's service. The Office of Ordnance has not failed in asking, nor the Treasury in giving.

Sir *Tho. Clarges.* I take the public Revenue to be 1,900,000*l.* per ann. You have passed a Vote for 600,000*l.* per ann. for the Civil List, but it cannot appear to be above 300,000*l.* in time of peace, understanding in time of war, all that can be spared out of the Revenue to the public interest of the kingdom. I think it very extraordinary that the Ordnance should make these Reports here: it is to the Treasury they ought to apply. Here is a bill for a goose, and a bill for a gander. Common fame says, the Army is not paid, nor the Fleet, only Subsistence-Money. They cannot at Plymouth ship above half the companies. It is said, the Dutch officers are paid, and the English not paid, and for some months behind-hand. This is making us Commissioners of Accounts, by bringing these Accounts to us. We have lost great opportunities in Ireland; I hope they will give you a better account.

Sir *Edw. Seymour.* Whether money has been diverted, or misapplied, this is matter of fact; the Seamen are not paid, and the Office of Ordnance is in a miserable condition. I will tell you this for matter of fact, and lay it before you, and I will undertake to make it out upon undeniable records; that in January last, all the Stores of the Ordnance and Navy were fully provided, yet remaining in the Office of the Ordnance to the value of a million. I would know where the expence has been; no occasion of consumption, there must be a fault somewhere.

Col. *Austin.* The point of fact before you is a defect of the Ordnance, and is there not a necessity to supply that defect, to give credit, and enquire into faults afterwards?

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Sir *Tho. Lee.* I find one office draws on another. Gentlemen will see, by the accounts of the Treasury, that the Seamen cannot be paid. 400,000*l.* has been paid to the Navy, but that is from the last of Dec. I do not think it proper, as the king's officer, to complain without command, or direction, from the king; I am here as a member of parliament. You will find, upon enquiry, how little came in of the money you gave.

Sir *Henry Capell.* I know not well the drift of this debate. I would gladly have the Revenue made out 1,900,000*l.* per ann. The Excise is to pay a considerable sum of the prince of Orange's Money. Till you see the Accounts and the Vouchers, 'tis a hard thing to say, 'That my steward has embezzled my money.' How far Guise's abilities are in Accounts, I know not; but this may startle a man, till he sees the nature of the Accounts. I hope every body, hand in hand, will be as thrifty as they can.

Sir *John Guise.* If I am the man reflected on, I am as capable of reckoning 1, 2, 3, as another man. As for Money, I would give it as soon as any body.

Mr. *Sacheverell.* I am surprized at the motion. 1,900,000*l.* gone and neither the Army nor Navy paid? I must wonder how 900,000*l.* all comes under lord Ranelagh's care: the Fleet nor the Irish army is concerned. How can it come about that the armies of Holland and England come to 900,000*l.*? I do not understand it: I desire he would inform the house of it.

The Earl of *Ranelagh**. 981,000*l.* has been paid me. I shall explain how that sum has been issued. There are four armies in being; the English army in Holland, the Dutch and the English in England, and the army in Ireland. I have nothing to do with the Dutch army, but all passed in my name, but was received by a Dutchman, paymaster to that army. An Account has been given to the committee; I cannot carry all the figures in my head, but when you require it, it shall be done. The king paid the Arrears of the Army that came over to him from king James; they were 22,230 men. They went from my care to Mr. Harbord: so that all paid me is about 360,000*l.* I am near the matter, clearing the Dutch and English armies. When the king came over, there was no standing privy-seal, and so no legal acquittances. Though you gave much the last session, yet not for the forces in England; for those in Holland and Ireland only.

Mr. *Sacheverell.* I hope Ranelagh will not take it ill if I ask him a question, or two. Whether an army of 40,000 men may not be maintained? If it can be made out, that there never were 50,000 men, I would know, if there was not 1,400,000*l.* spent, and no army paid? Suppose 35,000 foot. at 2*l.* a head pay, officers and soldiers, that is 700,000*l.* Suppose there are 15,000 horse and dragoons, paid them in 50*l.* a man, and that is not above 1,500,000*l.* The year is gone about, and the Army not paid; I would know how that comes about?

The Earl of *Ranelagh.* I hope, that, by virtue of my memory, you will not put me to give account of every foot of things. When, the last session, the Account was called for, the charge was 1,700,000*l.* per ann. Whether it was wrong cast up may be soon found out. Though we all know the Muster-rolls are not complete, nor the Army paid, yet all through my management, is paid the English and Holland.

Sir *Tho. Clarges.* You are told, the Charge was 50,000 men; that number, being never here, cannot come to 1,400,000*l.* In the time of Cromwell, and king Ch. 2. the establishment of a tropper's pay in Ireland was but 12*d.* a day, and the foot 8*d.* In Dublin it was more, because dear there. The grievance to me is this; the officers are not paid, and not clearing the Musters is a great damage to the king. Some reflections are made on what I said of the Revenue's being 1,900,000*l.* per ann. I told you that loss of Customs and defalcations were to be allowed. I will make it good upon my credit, that near that value is received. The Tax, &c. 800,000*l.*

Sir *Christ. Musgrave.* I think this is a good Account that has been given, but I would have it brought into the house in writing. We have been upon a long debate, and are coming upon a dangerous question, upon a sudden motion in the house. I know not what times or necessities you are coming into, therefore I would be tender to engage in you know not what. If all things of this nature be brought hither, you will raise more Money than you will know how to pay. You have already voted credit, upon what you have given, for 300,000*l.* That may give some credit to the Ordnance, and your Bills depending may give more.

Mr. *Garroway.* I think it is well moved not to vote on a sudden motion. 'Tis a dangerous precedent to make ourselves accountants. You are here to compute the War in gross; mine has no other end but to give Money for the necessary defence of the kingdom. Let them compute the charge for so many men; if they mis-spend it, let them answer it in God's name. I would enter upon Accounts no farther than to supply the present occasion. The deeper we entered upon Accounts, the deeper was always the charge. I have ever found it.

Sir *John Trevor* I had rather lose my estate in Ireland, than have that Vote. What does the king stand for? And the several Offices brought hither, must we be the Officers of every Commission?

Sir *Edw. Seymour.* You have appointed Monday for enquiries; I have a List in my hand of particulars, most from trading mer-

* "One of the ablest men that Ireland has bred, capable of all affairs, even in the midst of a loose run of pleasure, and much riot. He had the art of pleasing masters of very different tempers and interests so much, that he continued above thirty years in great posts." Burnet.

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chants. They may be in being, and the house not in being, and they feel the smart of it. I desire they may be here, by order of a summons from this house.—It was ordered accordingly.

Debate on the Charge against Captain Churchill for taking Money for Convoys.] Nov. 18. The Evidence of several Masters of Ships against capt. Churchill, for taking Money for Convoys, was heard at the Bar, viz. "That he would not stir without it; and as for those who would give no money, he took their men from aboard, and pressed them for his own ship."

Capt. *Churchill.* "I find a Complaint against me, &c. I deny that I ever refused to convoy. At the first meeting, they agreed to make a purse. If I have given offence, I am extremely sorry for it, and shall do it no more. As for pressing the men, I took none but what I had extreme necessity for. If I took so many as is said, they could not have sailed with me. I am sorry I have given offence, and I will never do any thing to displease this house. Convoy money has been anciently practised. I was forced from them by weather, and when I came to the Downs, the builders of the ship wondered she could swim."

Mr. *Papillon.* I would have capt. Paris called in, who would not tell you the truth. If a witness be dealt with, and minces the matter, you will never have truth.

Sir *Robert Rich.* I have heard the whole matter, and as for calling in the captain, you need not. Your member (Churchill) has owned the money.

Capt. *Churchill.* I confess, I convoyed 22 of 44, and if I had forced money from one, I might have done it from others, and it was a voluntary gift from them. I acknowledge I received 150 guineas as a voluntary gift from them; and I compelled no man.

Mr. *Papillon.* This is a thing of great consequence. I would not have this captain discouraged, nor the merchants abused; if they will give a gratuity, 'tis not extorted, but voluntary. Capt. Churchill told them, 'If you will make it worth my while, I will go with you;' of this there are three or four witnesses. If they had not made up this money, they must have lain by, ('twas a bargain,) their men were taken from them; if you do not something exemplary in this, you will ruin both seamen and merchants.

Admiral *Russell.* Nobody more desires that criminals should be punished than myself. I know capt. Churchill to be zealous for the government. The thing, as it is alleged, appears a heinous crime. If these Merchants will run presently, and make Subscriptions, indeed I do not think capt. Churchill so much to blame. If he does not appear to be a great criminal, for his desert, and what he may do for the future, I hope you will inflict as moderate a punishment as you can.

Mr. *Smith.* I am sensible this gentleman has done you very good service, and is hearty for the government. This seems to be so clear for your censure. He has made a modest confession of his fault, and if you can prevent this for the future, I would deal moderately with this gentleman.

Sir *Wm. Williams.* I cannot agree to pass this over without a question, nor would I deal severely with your member. The thing has been fully proved at the bar. Some call it 'a free-will offering, or present.' I would come to this Resolution, 'That taking of Money for Convoys, by men of war, is a Grievance.'

Sir *Christ. Musgrave.* I think your honour is concerned, for capt. Paris has prevaricated with you, and you will lose your authority if you suffer it.

Captain Paris was called in.

Capt. *Paris.* "I have now recollected myself. I petitioned lord Torrington for a Convoy; who answered, 'If we would go to Torbay, he would take care of us.' Capt. Churchill came, in the Pendennis: I asked him, 'Whether he was ordered for our Convoy?' He said, 'He was bound for the Channel, but if it would be made worth his while, he would convoy us."

Capt. *Hill.* "Paris put the question to Churchill, who said, 'He had no order to convoy us.' Twenty-two sail of us subscribed 20*l.* which he had. If it was worth his while (he said) he would go to the Downs with us."

Capt. *Churchill.* "The offers from capt. Hill came a week after, 'That if I would leave the Fleet, and convoy them, they would make the 200*l.* 400 guineas.' This, I hope, will, in some measure, justify me to the house, that I am not so very covetous."

Mr. *Coningsby.* This is a fault, and a great one in Churchill, but I believe it an universal one; but because others have not been so modest as your member, I would prevent it for the future.

Sir *Edw. Seymour.* I do not at all approve that method to pass by your judgment upon those you have heard, and punish those you have not heard. You have heard the Examination, and an instance of your discipline and government of the Navy. I shall only say this, that this affair now coming before you, and influencing the whole matter of Trade, I do not wonder that it is not more plainly proved, but that it is so much proved. It is a hard thing to bring men before you with accusations of this kind, and if you leave them in a condition to be worried by those they accuse, you will never have more. These Miscarriages, arising from particular persons, endanger the government. They can get no Convoy from us, and they apply to the Dutch. When a gentleman came that had the reputation of a Convoy, he was asked, 'If he came to convoy them?' 'No, he had liberty to go where he pleased, but make it worth his while and he would go with them;' and you see what that 'while' was; it was 250*l.* Till then they could get no sailing orders. He was directed for Convoy, but he would not till it was for his advantage. Some of the ships would not subscribe, and he took their men from them; and

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after they had sent their money, they were returned them again. Taking money for Convoys has been a practice, but never came into this house before; and if now you take no notice of it, you authorise and allow it. First take notice, of those that informed you, and prevent the man from worrying. That others have done it, is no rule for you; neither this gentleman's merits, nor any other's, are so great that you should lose your Trade for them. After all, this is before you: if you make not persons tremble, and, when proved, let it pass away, nobody, hereafter, will be afraid to do the same again. If you reprimand capt. Churchill only, you confirm the thing; but, whatever Resolution you will take to prevent it for the future, you shall have my vote.

Col. *Granville.* I hope you will not punish a thing not declared a crime. I should have thought myself ill used if I had it not. I have never got by the sea so much as my pay. I move, That you will vote this illegal, and admonish the captain, in his place, that he will do so no more.

Sir *Christ. Musgrave.* I hear, from under the gallery, what I heard not before, 'That all Convoys have taken Money, and thought themselves ill used if not gratified.' Presents have been given to captains after they have convoyed ships; but this gentleman was sent down for a Convoy. He tells you, 'That is a mistake of making it worth his while;' but one of the captains tells you, 'They could not have a Convoy without Money, and then they should have sailing orders.' I have not heard of such a thing; if this be the practice of the Fleet, you ought to remedy it. Taking money thus was ever a crime in this house; and why should this person, being a member of the house, fare better than those that are not? If you make a law for this, they will say there was no law before; persons will not come before you; they will be afraid. If you think this will give satisfaction to the nation—If not, I am for punishing.

Col. *Birch.* You are now upon giving judgment that may be exemplary to the nation. I do desire, in all these cases, that something within may not give me the lye. I am for the severest punishment. About nine years ago, in the Long Parliament, (a time supposed none of the best) that horrible imprecation was made use of in the house, of 'God damn me!' (Sir Robert Cann) to bring people to that degree of prophaneness to bring in popery at last. The case was proved with us then, and with you now. There wanted nothing but to smooth over this horrid oath; but, instead of that, the house thought fit to give a stop to that growing mischief; they brought that member on his knees, and sent him to the Tower. After some time he petitioned, and was brought hither, and expelled the house. I wonder how this complaint came so clearly before; but put a stop to this business. I challenge any man to give an instance where Convoy-money was paid before-hand; but for Convoys to contract before-hand! These things being so plain, I would do by this gentleman so as I hope you may never have occasion to hear of it in this place any more.

Mr. *Garroway.* I am sorry for this. I wish well to the nation, though I have but little time to enjoy it. You are pressed for a Vote of detestation of this crime; but first pass a vote. I remember a person (Ashburnham,) for pressing the king about a Petition, about French wine, which he treated for a small sum 400*l.* he was turned out of the house. I wish I had never heard of this here, but, now it is a thing before you, in judgment; but, if because it was not a crime before, you pass no judgment upon it, I look upon all these poor men that complain, as crucified. I have said before, to some of them on the like occasions, 'You will be turned out of your offices for it.' I know not what to move you, but some exemplary thing you ought to do.

Mr. *Foley.* This matter is of great moment to do justice home. You have two witnesses, that, on the composition, they returned the pressed men back again. If you pass this by, it is to no purpose to talk of Miscarriages in the Navy. I am sorry this gentleman is a member; because of the justice of the house, you are the more concerned, and you can do no less than send him to the Tower.

Sir *Edw. Seymour.* I am for proposing a question, seeing the Chair proposes none; viz. 'To declare that Money extorted from the Merchants for Convoy is illegal, and does obstruct Trade.' Next, 'Whether captain Churchill be guilty of extorting Money? And next, 'What punishment you will inflict on him?'

Resolved, "That the requiring or receiving Money for Convoys is illegal, oppressive to Merchants, and destructive to Trade."

Sir *Wm. Williams.* I cannot agree, as is moved, 'That Churchill only make submission.' It will require a great deal of Examination: if you will lay a severe punishment upon him, it will discourage him and many more. I would adjourn the debate for a week.

Resolved, "That capt. Churchill is guilty of requiring and receiving Money for Convoys."

Sir *Wm. Leveson Gower.* I will never make apologies for any man that has robbed by sea or land. I hope an ounce of misdemeanour will never weigh down a pound of merit. I would have him reprimanded only in his place.

Sir *Edw. Seymour.* Here is a person has broken your laws, oppressed your trade, and you are now going to apply punishment. It is proposed to give him a reprimand in his place, and the consequence will be, he will do so no more; and if he does, he will not give an acquittance for the money. You cannot, in justice, punish any man, more, if you punish not this man. It is said, 'He is a gentleman of great merit;' but no man of the Fleet can come before you, but as much may be said for him. But who would not for 200*l.* but have a reprimand here, and go do the same thing

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again? But you are to do something more, in consideration of your own justice, and the men that brought this before you. Will you leave these men to be worried by this man? Send him to the Tower, and declare him not capable to serve at sea again.

Mr. *Papillon.* As to restitution of the Money, it must be a greater sum than this 200*l.* It must be all that has been taken.

Sir *Christ. Musgrave.* You were told by one, 'He was unwilling he should come upon his knees, and yet be sent to the Tower.' If sent to the Tower, he must be upon his knees at the bar. Lord Devonshire was sent to the Tower,* and not upon his knees. Will that sound well, to be reprimanded only in his place? I would send this gentleman to the Tower, and order him to make restitution. Else you will not give satisfaction to the people injured.

Sir *Tho. Lee.* There is nothing so essential as the reputation of the house, that you will do right to all people, and see that none have wrong. The exercise of your power should be so used, as not always to exert itself to extremity. As for presents, every body takes them, but you are doing this for a precedent, and I hope it will be remedied for the future. There are great expectations what you will do in this. For length of time in the Tower makes the punishment. There have been precedents, in these cases, of bringing to the bar; but I am for the new precedent of lord Devonshire, to commit this gentleman to the Tower, and not bring him to the bar. Neither would I encourage complaint by over-doing this. This gentleman would rather, I believe, fight three battles with the French, than one with the house of commons. I move, That he may be sent to the Tower.

Resolved, "That captain Churchill be committed to the Tower."

Dr. Walker receives the Thanks of the Commons for his gallant Defence of Londonderry.] Nov. 19. Dr. Walker came to the house to receive their Thanks for the service he did at Londonderry.†

The *Speaker* gives an account of a precedent, in 1607, of a Scotch gentleman that gave some Account to the house, sir W. Seaton, who had a chair set for him *.

Mr. *Garroway.* That was in respect to the Scotch nation, and king James, then newly come in. It is honour enough to come to your bar, to receive the thanks of the house, and I would do no more now, nor make any new precedent.

Sir *Tho. Lee.* I am afraid some gentlemen make too light of form; the dignity of the house must be preserved. You sit covered in a committee of lords and commons, but not a conference. Sir John Grenville, when he brought a very welcome Message to the house from Charles 2. from Breda, delivered it at the bar, and it was not thought below his dignity; and sir Samuel Barnardiston, when he defended the cause of the original Causes in the lords house, had your thanks given him at the bar. You must have respect to the dignity of the house, else you will bring it to nothing.

Dr. Walker, at the bar, standing.

The *Speaker.* Dr. Walker, the house has received a Petition from the Widows and Orphans of those that were slain, and died in the siege of Londonderry, and has thought fit to recommend their Petition to the king, that he would please to give them 10,000*l.* for the ease of their present sufferings. They likewise take notice of the extraordinary service you have done to their majesties, and to England and Ireland, in the defence of Londonderry; and especially in that you undertook it when those who should have done their duty deserted it; and they have commanded me to give you the Thanks of the house, and they would have you give the Thanks of the house to all those that were in that service.

Dr. *Walker.* "Those poor creatures, I am assured, will be very thankful for the honour you have done them. For the service we have done, we do not deserve the honour you have done us. We shall at all times be ready with our lives to maintain the Protestant Religion, and the Government."—And withdrew.

Debate on a Petition from the Jews.] A Petition from the Jews was delivered by Mr. Paul Foley †.

Sir *Tho. Clarges.* I remember a Protestant lady in France, who, being sick, and pestered by English priests, sent for one of our ministers, and he put them out. Our ambassador had audience of the French king, and told him, That they were subjects of the king

* When he was lord Cavendish. See vol. iv. p. 761.

† After col. Lundy, the governor, and the Council of War, had resolved to abandon the place, the townsmen chose this Mr. Walker, (who was rector of Donaghmore, and had raised a regiment for the defence of the Protestants) together with major Baker, joint-governors; and, though the place was very ill fortified, and their cannon, which did not exceed twenty pieces, were wretchedly mounted, though they had no engineer to direct their operations, and had a very few horse, with a garrison unacquainted with military operations, and so destitute of provisions, that, at last, even the most loathsome food began to fail, they defended the town against all the efforts of a formidable army, commanded by king James in person, till it was relieved with troops and provisions, by gen. Kirk. Mr. Walker, on his coming to England, received from king William a reward of 5000*l.* and a promise of farther favour; but his military genius still prevailing, he attended his royal master to the battle of the Boyne, and there lost his life.

* This had been voted him the day before.

† There is no mention of this Petition, or Debate, in the Journal.

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of England, and ought not to be molested, The French king replied, 'While they are here, they are my subjects, and under my protection.'

Mr. *Hampden*, jun. I hear some of these Jews are naturalized, but I would know how they come to be naturalized? If a Jew kill a man, or a man a Jew, he will be hanged. There is a great deal of difference betwixt being subject to the laws, and enjoying the benefit of the laws.

Sir *Tho. Lee*. Consider the consequence of receiving this Petition from the Jews. It is directly against an Aid; 'They desire not to be taxed, &c.' Pray let not such Petitions be received. You will not receive it from others, pray begin not with the Jews.

Mr. *Hampden*, jun. My knowledge reaches not to that doctrine of receiving no Petition against an Aid; it is not for the honour of the house to receive such a Petition; it is a new way to me, that Aid should be petitioned against in granting. I never saw such a petition, nor such reasons to the contrary. Those Jews are subjects, in a large sense, and since it is urged as the right of subjects to petition, let them not have more right than the rest of subjects.

Mr. *Foley*. I think, that, for the honour of the house, you are to hear what they will say. Where you lay a general tax on a whole kingdom, you can receive no Petition against it, because all are represented here, but when there is a particular tax on men, they may petition.

The *Speaker*. I never knew a Petition against a Bill before the house was seized of it.

Sir *Rd. Temple*. You have heard petitions against a tax on Sugar and Tobacco, but they must not take notice of every Vote to ground a Petition upon, that is not parliamentary.

Mr. *Hampden*. You have thought it necessary that the Money should be raised. I have a Bill in my hand; pray let it be read.

Resolutions on the Case of Sir T. Armstrong.] This day, the Case of sir Tho. Armstrong was again reported; upon which the house came to the following Resolutions, viz. 1. "That sir T. Armstrong's Plea on the statute 5 Edw. 6. ought to have been admitted; and that the executing him upon the Attainder by outlawry was illegal, and a murder by pretence of law. 2. That the executors and heirs of the said sir T. Armstrong, ought to have reparation of their Losses out of the Estates of the four Judges and two prosecutors. 3. That a Writ of Error for reversal of a judgment in felony or treason, is the Right of the subject, and ought to be granted at his desire; and is not an act of grace or favour, which may be denied or granted at pleasure."—The house was then informed by the Committee appointed to examine this iniquitous Affair, that sir T. Armstrong's real estate was 300*l.* per ann. and that his personal estate consisted of bonds, &c. for 4,800*l.* and 3270 guineas, and an annuity of 500*l.* per ann.—Ordered, "That leave be given to bring in a Bill to reverse the attainder of the said sir T. Armstrong, and to make Reparation to his widow and children out of the Estates of the Judges and Prosecutors, and that the Bill do pass without fees."

Debate on the State of the Nation.] Nov. 23. The house went into a grand committee, on the State of the Nation, Mr. Grey in the chair.

Mr. *Papillon*. Two things we are to consider; how the Money you have given has been spent, and how the Army and Navy have had no more. But of most effect is to consider the State of the Nation, to provide for the future. A great deal of Money has been given, but has not answered the charge. We have a war in Ireland, and the French upon our coast. I would provide suitable provision for all.

Sir *Rob. Howard*. I should be glad to be instructed by gentlemen to come to particulars. Melancholy complaints will do us no service, and, seconded with sighs, tend to no other effect, than that 'the Regency' was good advice. I will let generals pass, and offer particular remedy, which calls upon you for redress; that is, in the case of your Forces. As you have heard, on the muster-rolls, there has been 70 men in a company, and it is well if there be 40. Now Money must be considered, that it may be to save you. If 10,000 men be pretended in Holland, and there are not 4,000—the business is to make an end of the War, and not to teach the Irish to fight by land, as we have taught the French to fight by sea. Therefore I move you to make a present inspection into this, and a strict one. I would have members of the house employed, both in Ireland and here, and every where, that by this deceit we be not brought to ruin. If officers be underpaid, remedy that. What I move, is, to send presently into Ireland. The business of Popery is now out of doors. King William is 'king of this people, and this people's king.' This must be presently inspected.

Sir *Tho. Clarges*. A great part of this motion has been already answered, of sending persons into Ireland; so far, I think, we are on the way. I doubt not but the king, for his own preservation, as well as ours, will not pay men in chimæra, but certain; as you give Money to support the government, to save all unnecessary expence. Therefore I would address the king to take away that Charge in Holland of **** a month. By the best enquiry I can make, we are under no obligation by Alliances.

Mr. *Godolphin*. What is offered, is proper in due time; but if the men step ashore before the ship be at anchor, she will be apt to run a-drift. Before I come to particulars, I shall offer something general abroad and at home. In respect to the government, and the people, there must be an Aid to carry on the war we are engaged in, not by a short Act to collect Money only, but something to rely on for your security. For home, I would consider Religion and Trade. The Courts of Justice are well

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filled, and that is one remedy. For trade, there is little but what supplies your enemies to your disadvantage. For Religion, I think there is more than enough. But upon all accounts, that concern Religion, I think the Church of England too much discountenanced, who have supported you by their learned writings. I would do something to enlarge on Protestant bottoms; but I will postpone this consideration till a more convenient season. For Trade, whilst you are defending yourselves, the common enemy runs away with your Trade. For Grievances, as the Charters, &c. I am of the same opinion I was of the last session, for an Act of Indemnity from the king, to give him all the grace of it, to unite against the common enemy. Your enemies are either of France, or from France. The French king's Revenue is 110,000,000 of livres, and he has 200,000 men in pay; his kingdom well fortified; his arsenals well stored, and a great force by sea; they have met the English and Dutch Fleets in conjunction. It behoves the house to think how we shall deal with such a formidable enemy, to consider our allies, and to know how far Holland, in particular, will go to suppress this Navy of France. I remember the Pyrenean Treaty; what will it signify to give up Burgundy, and Luxembourg, &c.? I think we are not secure unless we destroy the French Navy. I move, therefore, to know how far Holland will join in suppressing the power of France.

Sir *John Guise.* One of the Dutch ambassadors told me, 'That the Dutch would pawn their shirts to go on with the war.' I am not for going back therefore. Certainly it is natural for you to consider from whence the ill government came, and to prevent it for the future; and, I hope, we may raise the English nation, and the reputation of it, again. If there be ill management, it must be from those in employment. Either they must manage no more, and you must apply to the king to take care of it, or take care of it yourselves, by yourselves, by the king's permission. My motion is, to consider and report what is the occasion of these Miscarriages, and calculate what are the Charges of your Land-Forces, and that you will employ people of your own, if you see occasion, to depend upon.

Debate on Abuses in Victualling the Fleet.] Sir Robert Napier gave the house an Account of a Letter he had received.*

Mr. *Hampden*, sen. This information is not impossible, in nature, to be true, but morally impossible. I cannot believe so much barbarism in men, so formally to undertake to destroy so many lives. Now, whether you will call in these men? Pray go on. Is this worth your curiosity? Would you have people abroad make sport with you, with a story of garbage? I doubt this will be censured. Pray go on; chuse your point what you will, and let this Letter be for the enquiry of a private Committee, and leave not the consideration of the Nation.

Sir *W. Leveson Gower.* I would examine these men that gave this information; if they abuse the house, punish them for example's sake, but hear them.

Sir *Tho. Lee.* It is for your service, very much, to have these men called in. If they have told you matter of fact, and do not make it appear—Such false reports as these may be studiously raised; if they prove true, those that were the authors ought to have the last punishment. But I take not the Committee of the whole house to have power to send for persons, papers, and records. I do not remember that a grand committee, without power from the house, has sent for persons, papers, and records, in all my observation. I would have the Speaker take the chair.

Mr. *Foley.* As yet this is but hear say, but a Committee may enquire into it. The Victual that went with the Ships was good, but that sent afterwards, though some laughed at it, was given to dogs, and they died immediately. I believe there is something in this, and it ought to be examined; and I desire you will do it.

Col. *Granville.* The Beer, on board the Ships, proved very ill, and, upon enquiry, it stunk confoundedly. Lord Torrington said, 'If it was what used to be beer, if it was boiled, it would come to itself again, and turn into beer;' and it was so, but still stunk, and seemed to be garbage put in the vessels.

Sir *Peter Colleton.* I hope you will do something in this matter. One ship came into Torbay, out of the Indies; as soon as they used this victual out of these ships, all their men fell sick. I am fully convinced that your men have been ill-used by the Victuallers, and, unless it be remedied, you will have no Fleet next year.

Mr. *Papillon.* The purser of the ship knows from what brewer, and what victualler, they send in the Victuals, and so you may find it.

Col. *Granville.* From whence good victuals came I cannot tell, for the Fleet had it from every place, and pray let them all answer for it.

Mr. *Hampden.* The question is for sending for all the Victuallers in custody, who are, sir John Parsons, sir Rd. Haddock, alderman Stuart, and Mr. Nicholas Fern. It is not necessary for me to premise that I am no advocate for these Victuallers. I believe the Fleet is as ill victualled as if our enemies had done it; there are several ships now ready to go out, some are fully victualled, and some not; they have received money for that service, and it

* This Letter was from Plymouth, to one Rice, from his son there, giving an account of great abuses discovered in the victuals and beer provided for the Fleet lying there, and ready to go forth. And the said Rice, being called in to the bar, to own the said Letter, owned the receipt of it accordingly. Several members likewise attested the same, &c. See the Journal.

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must be done immediately, and if not done by these hands that it is now in, your service must stand still. The new Victuallers cannot enter till they have account of the Stores that are left. There are orders that their Accounts be given up, and the keys and Stores delivered in; if you send for all these Victuallers in custody, all this service must now stand still.

Mr. *Coningsby.* You are told that lord Berkeley's squadron is ready to go for the East Indies; would you have them destroyed as the rest were? What better evidence would you have than what you have heard? I would send for them in custody.

Mr. *Papillon.* Not above a week ago I was sent for to the king to accept of this employment of Victualler of the Navy. I told the king, 'This affair had been neglected three months, and had been delayed so long that I durst not undertake it; therefore it was my humble request I might not be one of them.' But the king said, 'He would not excuse me.' I can but say I can do no more than I can; but this will be taken for a great discouragement, to be brought into custody, before particularly charged; for men may put tricks upon the Victuallers.

Col. *Granville.* The complaint is so general, and the seamen so cast down, that, if you value not these complaints, you may talk of raising money, but not of raising seamen. I would have them sent for in custody, to give account how they came by these ill victuals.

Sir *Robert Rich.* If I knew who put king James's Victuallers into office, I would send for them in custody also. Would any gentleman take arsenick of a brewer that would poison his family? Send for them in custody, and then enough will come in to inform you farther.

Sir *Tho. Lee.* I think it necessary to give you some account of this, because it is said, 'It is now too late to change the Victuallers, and that king James's officers do now victual the Fleet.' The matter is this; they have stayed so long, that it is known how late in the year the matter of the Victualling was thought of, and how late we came into the employment; before new men could be put in, the summer-season would be lost, and there would be no Fleet; so that had you then changed hands, you had no time to spare, and the service fell thicker and thicker every day; and, if the Victuallers had been changed, the necessity was such there was no time to do it. I would have gentlemen think that such changes but as these are not to be made at all times, when the Fleet is pretty full of victuals. Except buying pipe-staves, nothing is to be done in August, and it was then the king knew that what was in stores must be made use of, or else all must stand still. If you send for these in custody, none will undertake it.

Col. *Austen.* I have heard it said, 'There is a necessity to take men into employment that are versed in business.' If these men are the only people that are to be employed, whither will you go next? Whatever you do with these men, who are so versed in business, I hope you will take honest men in their stead.

Mr. *Fox.* I shall not be an advocate for these Victuallers. I am concerned only for one of them, sir Rd. Haddock. I will answer for his security; he will not run away. He gave Mr. Fenn 1700*l.* for that place.

Mr. *Papillon.* You have had sufficient security that these Victuallers will not run away. If any gentleman will engage that they shall appear to answer this Charge, I think that will answer your end.

Sir *Edw. Seymour.* On all accusations I shall be very tender in sending for men in custody. But as the nature of the question is, it is absolutely necessary to send for them in custody. The ill usage and abuse the seamen have had in their Victuals, has been represented to you. For your resentment of their ill usage you can do no less than send for them. I was in hopes, when Lee stood up, that he would have told you 'That there could not be such miscarriage in the Navy, and he, of the Admiralty, be ignorant of it, that should have prevented it.' But, I find, the Admiralty know as little of this as they know of the stations of the Convoys. Had they looked over the Journals of their office, they could not have been ignorant of this; but I fear the commissioners know no Journals, but of the house of commons, and what they sit there for.

Sir *John Guise.* I am against names in particular. I would rather send for them in gross. You cannot distinguish the Victuallers, whose provisions were amiss. I would at them all till they can clear themselves.

Sir *Henry Capel.* When I heard Parsons named one of the Victuallers, I was amazed; but, as for Haddock, he is an able seaman and a good protestant. He has an office in the Navy, but he was neither manager nor contractor, therefore put not him among the Brewers and Victuallers. I would be tender how we discourage a man that has commanded a squadron at sea.

Sir *Christ. Musgrave.* I shall say nothing to the debate, but to preserve orders. When it is a complicated question then by order, you may divide it. When there are so many names, then you are to put them one by one. It was the practice lately upon the Pains and Penalties. Will you lump such a question as this?

Sir *Wm. Williams.* Will you put the question entirely, or upon the several persons? When the persons are distinguished in the debate, then the question is upon every single person. This charge I took to be a joint-charge, a breach of public trust; it arises not from an information at the bar, but the knowledge of your members. This is not to punish nor convict them, but to bring them to farther Examination, whether this was wilfully done, or by accident.

Sir *Henry Johnson.* I believe the Navy will stand still without sir Rd. Haddock, he is a man so conversant in the affairs of the Navy. You have been offered security for his appear-

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ance. He was against the Dispensing Power, and was turned out by king James.

Divers gentlemen offered Security for him, and affirmed the same.

Sir *Edw. Seymour.* You are on the question of sending for Haddock in custody. If any one of these comes before you with a title to recommend him to your favour, it is Haddock; yet I am for sending for him in custody. You are not now enquiring into men's merit, but into fact. He is Comptroller of the Navy, as well as Commissioner and Victualler, and can give you the best Account. But I observe, it is unusual for these offices to be in one person. I would send for him in custody.

Col. *Austen.* I cannot but believe him to be a person as worthy as he is named to be; if you cannot distinguish him here, you must send for him in custody.

Mr. *Hawles.* If you cannot distinguish him in guilt, I would distinguish him in punishment. I find no evidence against him; but a very ill thing has been done; here are ill things done, who did it? We do not know. No person that did ill in the other government can be fit to be in this. Ill things have been fully proved against Parsons, and it was ill done, after notice of this, to keep him still in employment. I move to have Haddock sent for in custody, for you cannot distinguish.

Sir *Wm. Leveson Gower.* Perhaps sending for him in custody may be a favour, when you discharge him without his fees, and perhaps with marks of honour too.

Mr. *Cha. Montagu.* I have a fair opinion of Haddock, but I think it injustice not to send for him. You send for him as a Victualler of the Navy, but not as a criminal. I offer what I wish may be done; that, though your Vote be to send for him in custody, he may be sent for till farther order.

Mr. *Boscawen.* I would do what in prudence may be done; instead of sending for him in custody, to summon him to appear.

Sir *Tho. Littleton.* I believe the great character of this man is deserved. I think, equality of justice is more in your consideration than any thing else. All the Victuallers are jointly accused, and he not in particular.

Mr. *Hampden*, jun. If you summon Haddock, it will be more for your service, and you will have him before you.

Resolved, "That sir John Parsons, sir Rd. Haddock, alderman Sturt, and Mr. Nicholas Fenn, Victuallers of the Navy, be sent for in custody of the serjeant."

Debate on Mr. Waller's Account of the State of the Army in Ireland.] Nov. 26. Mr. Waller, who came lately from Ireland, gave an Account, at the bar, of the State of the Army in Ireland, and the condition of Affairs there; and then withdrew.

Sir *Tho. Clarges.* This gentleman favoured me with a visit, and then said something more particular. He said, 'When he went first over, it was ten days before Londonderry was relieved. There were 10,000 Irish before it defeated, and the general taken prisoner; they were in so great fear, they all ran away, with few men of ours pursuing. He was in hopes we might march to Dublin to possess it. At Chester they left all their baggage-horses; the general wondered they came not; from which a great part of the misfortune came. When he came back to Chester, he asked, 'Why the horses staid so late?' They told him, 'It was for the best profit persons could make to put them to grass.' As for the sickness, it was wholly amongst the English foot. One regiment lay amongst the Dutch in their huts; their officers looked upon their soldiers as their children, and would see them make their huts, pave them, and lay fresh straw; in the whole Dutch camp scarce two died.' By what I apprehend from the discourse of this gentleman, we lost so many men from the negligence of the officers. There was great defect of clothes; all that were well cloathed were in health.

Col. *Birch.* I find this person has taken exact notice of things, and, I believe, can give you a farther account. I would know, at what set time the Soldiers are paid, whether weekly or monthly; whether paid upon muster, or how?

Mr. *Garroway.* I desire you would ask, when they were mustered? When they were paid? What money, and at what rates?

Sir *Thomas Clarges.* This gentleman was a volunteer; he had no pay. He says, 'A piece of eight of 4*s.* 4*d.* was paid them at 4*s.* 9*d.* Guineas here at 1*l.* 1*s.* 6*d.* there at 1*l.* 3*s.*'

Mr. *Hampden.* It was thought the best way for the king to take up the money current there, dollars; and it was ordered to go at the current price of Ireland. Perhaps some of that money did not go so high as it might do; what was over went to the king's profit.

Sir *Christ. Musgrave.* This gentleman gave you an account 'That he was at Chester, when the duke of Schomberg went over into Ireland.' I would ask him this question, Of what number every regiment did consist, horse, foot, and dragoons, when mustered at Chester; and when they arrived in Ireland, what number they were there? I would know what service the ships at High-lake were designed for, whether artillery, or baggage-horses? And why they were not shipped with the Army, how they came, and how long after?

Mr. *Waller*, being called in, said,—"The foot were paid every day; the horse once a month, with deduction for cloaths. Since the sickness, they muster often, once a fortnight. They are are paid in pieces of eight at 4*s.* 9*d.* guineas at 1*l.* 3*s.* They found no provision of straw and corn where they were, but, in their winter-quarters, straw and oats, but no hay: the last three weeks the horses were at grass and oats in the field; the horse were at grass the 10th of Nov. For surgeons medicines, I have heard they were very ill provided. I saw none of them, and I have heard they had little, or none. It was reported they had 1700*l.* worth of medicines, but I know not where they were,

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The foreigners were warmer cloathed than our men; in great coats over their close-coats; of which the English had none. The most healthy of the English regiments was the earl of Meath's, of which few died; the next was sir Tho. Gower's, who took great care. There was little mortality among the horse; I attribute it to their cloaks. The camp was very moist, and extraordinary wet weather. I was in a house at Dundalk, and followed duke Schomberg who was two or three days before me. I was told they mustered 7 or 800 in a regiment; they shewed very full. Duke Schomberg went over with 70 ships, and left at least 100 to bring over the artillery and the horse. The horse dropped in as they could. When they came together, there were two regiments of horse, and one of foot, with between 40 and 50 sail. There were not many deserters; but few on either side. No action passed whilst we lay, but skirmishes with the out-guards. They were not well furnished with shoes. Some came late; they were not consigned to any body."

Debate on the State of the Nation.] The house then went into a grand committee, on the State of the Nation. Mr. Grey in the chair.

Col. *Sackville.* We have raised a great deal of Money, and if we take no care to dispose of it, we encourage our enemies, instead of defending ourselves. If the French king had paid for his Expedition as we have done, he had drained his coffers of Money. Whilst we look after punishing others, our own will come upon ourselves. I will offer no methods, but what are easy, and what every man uses that has his head upon his shoulders, in his own family. Consider what force we have to maintain the State of the government. Several things have been moved, and nothing yet concluded. Consider the State of the Army, till you have made an actual Settlement of the Land Army, the Sea and Ordnance. There is no going back. When William the Norman conquered the nation, he set fire to his ships. I move, That you will pass a Vote to take into consideration the State of the Army in Ireland, England, and Holland; and, when you have settled the Army, then the Navy to have a certain Settlement; and then send men to oversee.

Sir *William Leveson Gower.* I would know, from these gentlemen concerned in the house, whence this ill management arises?

Sir *Henry Goodrick.* The Office of Ordnance is obliged to the duke of Schomberg, to put it into condition to show the proceeding—Never man thought of more in that Office than his experience dictated to him. As for buying 500 fresh horses for the carriages and train, the money that was assigned for that purpose was duly paid, and I hope, well employed. There was no delay in the horses; 26 pieces of cannon were drawn by those horses to Chester, but so it happened that the platforms were taken off, and applied to things more necessary at that time. It happens so pat that duke Schomberg desires this delay may be enquired into, that I shall, if you please, read his letter to that purpose. 'Nov. 15. I have dispatched warrants. 'I am glad the parliament is so unanimous to 'vote for the Navy. There were great abuses 'in the embarkation of the forces for Ireland. 'To answer that of the baggage horses, they 'were ready at Chester.'

Sir *Henry Capel.* To inform against a person I shall be tender, and I am not capable of it; but I think it fit to enquire into the bottom. The horses were not only stayed at Chester, but let out to hire. The Treasury had nothing to do, but to obey orders issued out to them.

Sir *Tho. Clarges.* From whom are we to enquire into the reasons of Miscarriages? There are four people were in all offices, who went through the Navy, Admiralty, Ireland, and were commissioners of the Army. Our business to-day is to consider the State of the Nation, all full of Miscarriages. I have lived many years, and in several forms of government; I hope I shall see no more changes: I never saw the like Miscarriages: We have lost a million by France at sea, and almost a kingdom for want of Supplies, if report be true. In great probability, Ireland might have been had in Jan. last for asking for. Mr. Waller seems to insinuate that the loss of the soldiers was for want of care of the officers. As for the Army we are to see what it is, and how many, that our Money may be employed to the honour of the government; and as for the officers, they are worthy gentlemen, but those may be thought fit in time of peace, when in time of war it is necessary that some few men of experience should be added. Perhaps, if some experienced men were added to the Treasury, it would do no hurt. Every day we have experience of fresh news of the ill success of the government, and people may doubt whether we can be protected, or not. If Trade be lost, land will fall. We shall hardly have success in Ireland unless the king employ some actual executive power in that affair, and in some emergency put the absolute executive power in some persons, that if they want a rope here, or there, they need not go to seek it in several offices, but may have power to use the Treasury to issue out money as occasion requires. We have heard of armies, and garrisons, and whole fleets, but where two or three commissioners are appointed to take care of affairs, these things are not done so easily. Upon the whole, I would make an humble Representation to the king, of the State of the Nation, and leave it to the king's wisdom.

Debate on Commissary Shales.] Mr. *Foley.* It was a wonder to me at first that Shales* was employed; that no man should be employed, but one so much in king James's interest. They knew this man to be faulty in August, and no care was taken. In former times, privy counsellors were the eyes and ears of the kingdom,

* Shales had been Purveyor to king James's Army on Hounslow-heath.

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and now all this must be put upon the house of commons, and we may sit here till Midsummer, at this rate. I would address the king, &c.

Mr. *Smith.* In plain English, knaves and villains are employed, and those who would not give their consent to take away the penal laws and Test could not get into their places, and others that did are got in. I would desire the king (in our Address) to tell us, who were the occasion of putting these men in. As long as you have the same councils, you will have the same things done.

Sir *Henry Capel.* I cannot tell how these comptrollers were sent into Ireland; but, I believe, since Shales came away, both those in king James's and Charles's time in employment are removed.

Sir *John Thompson.* One thing gives me comfort, that you have it manifest before you, that there is treachery. The generosity of king Ch. 2. who spent so much money, was the security of the nation; but in time of war the nation cannot bear it. I am against the motion for an Address to the king, &c. You are told of Councils, but you forget the *primum mobile.* You have been told it came from higher powers. You made an address for a lady of quality to be sent into France—(duchess of Mazarine.) Is she gone yet? I know not the reason. The king must know the sense of the house, let counsellors say what they please. I would address the king to know who advised him to employ this person, Shales.

Sir *Christ. Musgrave.* You are not ripe for a question; you have not matter enough to ground such an Address. I think, before you proceed to that, you should know to whom Shales is accountable. If these Miscarriages are of so great a date as August last, you must know why this was never examined nor punished. It must rest upon these persons whom the king has intrusted. If this house examine all Miscarriages, you must be a perpetual parliament. I know, Shales's employment is Commissary of the Stores; certainly some persons are superintendants. When you know that, I think the committee will ask some questions; till then, I would not address the king.

Mr. *Garroway.* I question whether our pressures will admit those ceremonies in gradations. Certainly there are great Miscarriages. Perhaps he was recommended by such a man, as those who should call this to account dare not. I never heard Shales named for good in my life. I have heard that he has sent over his proper goods in those ships that should have transported the horse. I know not how you will examine him, unless you will send for him over. I think it no injustice to take such a man out of employment, so ill a man.

Sir *Rob. Howard.* I have great hopes that we shall make use of this debate, since no man has forborne to give his thoughts, if hopes do you any service. Here have been great Miscarriages. I never heard a man speak well of Shales, nor do I believe I ever shall. He was very gracious with king James, and I am sorry he is employed by king William. You may kill two birds with one stone; and, to do something very plain, I would have an Address to the king to have persons sent into Ireland to take account of the numbers of the Army, and the Provisions. I am plainly for members of this house to go, who know their duty to the nation; that Shales may be secured there; and the duke of Schomberg will inform them of all things, and Shales's books may be examined, that you may know the number of the Army: You will then have a just Account of it, and I move for an Address of this nature.

Col. *Birch.* I am pretty well encouraged this day. If ever you have the war carried on with honour and success, you must hang this man. As for displacing him, that is a minute thing with me. If he be a commissary, it is a great employment, and it is in his power to do all this. The space betwixt the regiments arrival in Ireland was six months. But I would fain have the life of the business looked into. Whoever put this man into this trust are friends to king James, and not to king William. I would address the king to see his commission, and by whom this gentleman was commissioned for this service. 'Tis by the same hands that you have had all this ill success. Find the source, and I doubt not but the king will tell you.

Sir *Henry Goodrick.* You have had informations, of several sorts, that the duke of Schomberg is extremely unsatisfied with some about him. If the duke thought the Army could be supplied by breaking this man, before the Army came into winter quarters, he would have done it. His title is 'Commissary General of all the Provisions.' If this be fit to be stirred in before the Army were in winter quarters (I intend to look farther,) the duke will do as a loyal and wise man; but since the matter was unsafe to be stirred in before now, I hope it will not reflect on the duke. I agree to an Address, as moved; and, 'That Shales having been employed, those who recommended him have been rather friends to king James than to king William.'

Sir *Rob. Howard.* You are moved to know of the king, who advised him to employ Shales; but take heed of doing one thing that may do a great deal of mischief, if you delay here, and let him go over to king James. Talk not of who advised this, and send him to his old friend king James.

Mr. *Smith.* If we had not questioned Shales here, he may stay another campaign in Ireland. I would know a reason, why on suspicion he was not clapped up first. We must attribute all the Miscarriages and misfortunes to the Committee for the Affairs of Ireland. I would have this man taken into custody, and have some other committee for Ireland.

Mr. *Garroway.* You were told, 'That he was suspected to go over to king James, when he went into Ireland first.' Do you think he can be safe there? He has done a great deal already. He knows all the secrets of the Army;

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a hundred things that no man can foresee; as where a garrison is that wants victuals, &c. I would not have a perplexed question, but still I insist on knowing him that first advised he should be employed, and I would address the king that the duke take him into custody.

Col. *Birch.* I am for hastening the question, and making it effectual immediately. I would wait on the king, and that will do it.

Mr. *Garroway.* I would leave it to the duke to put in another person. If he be recommended from hence, I look for as bad a man as he. The king knows nobody fit. We are the Great Council of the kingdom, and I think it is no intrenchment on the king's prerogative, why the king may not take the Advice of this house, as well as of the private ministers.

Sir *Henry Capel.* I agree that this is the Great Council, and are the best counsellors. It is a great honor to duke Schomberg, and for the good of that kingdom, to address the king to order him to present a person for this place. If you address that the duke name a person, I appeal, whether the duke will do it without the king?

Sir *Wm. Williams.* If the duke nominate a person, it will take up more time than the king can spare. It must be done presently.

Sir *Henry Goodrick.* The general is a check upon the commissary; he must be responsible for his commissary; that is, that you will not put upon him.

The Earl of *Ranelagh.* I spoke yesterday with col. Lumley, who says, 'that Shales is in Ireland, and two men were sent comptrollers, able and honest men, Robinson and Fielding.'

Mr. *Hampden.* Fielding is in Scotland, and Robinson in Ireland, but not suffered by Shales to act.

Mr. *Garroway.* I think your Vote will not have perfect effect, unless you address the king to remove the advisers of putting Shales into employment.

Resolved, by the Committee, 1. "That the house be moved, That an humble Address be made to his majesty, That Mr. John Shales, Commissary-General of the Provisions, be forthwith taken into custody; and all his Accounts, Papers, and Stores secured: and that a fit person, or persons, be put into his place: and that his majesty will be pleased to impower duke Schomberg to do the same. 2. That an humble Address be presented to his majesty, That his majesty will be pleased to let this house know, who recommended Commissary Shales to his majesty, and advised his being employed."—To the first of these Resolves the house agreed, nem. con. but, on the second a debate arising, the question for adjourning was carried in the affirmative, 89 to 80.

Nov. 27. The debate on commissary Shales was resumed.

Sir *Tho. Littleton.* I was, last night, for adjourning the debate. Then you had two ways proposed, either to acquaint the king, but that was not thought proper, and in hopes that the debate might be resumed, that another motion might not be so harsh as this motion of an Address to the king; and first to vote, 'That those persons were enemies to their king and country who advised him to employ Shales, and that he would remove them from his person and councils for ever.' I do not remember that the thing was ever done before. The king will be unwilling to deny you, but you put a great hardship upon him. I would rather mark such men out, and, I believe, the consequence will be, somebody will be removed from the king's councils. Suppose the king forbear any Answer at all, it would look like distrust. What effect can you have? The king will remove him, but he may also be prosecuted. The king can be no witness in law. If the consequence of your Address be, that somebody will be removed, many will be glad of that consequence.

Sir *Wm. L. Gower.* I am for going none of these ways: I think we are out of the way. I think what we are about is as much as to say, the king shall be an informer to this house. He that knew that Shales bought his place, can tell you more (lord Castleton.) I would have him asked.

Lord *Castleton.* It was a vulgar report that Shales bought his place. I said, 'I believed Shales was no friend to king James, nor king William, but to himself.'

Mr. *Hawles.* I am for the Address. We must make use of extraordinary means. If, by a precedent, we must find out unprecedented things, we shall never do it. If king James was to come in again, he could not make a better choice of some persons in employment. The king is a stranger to us. Councils have recommended persons who did it. It must be in the dark, and this is the best way to discover him and other persons. The first employment was in the West-business, and no man fitter to be employed to betray us—That man who recommended him is not fit to be in employment.

Col. *Austen.* I am as unwilling to propose any indecency to the king, as any man. We have a wolf by the ears in this; we know not how to let him go. You only desire to know of the king who brought Shales thither, and humbly beg the question.

Sir *Rob. Cotton.* If the king nominates who recommended Shales to him, you have ground to proceed. Though the king be a stranger to the nation, he is not to point of honour. You cannot do it decently. But the king may remove him from his council, and that will be sufficient.

Mr. Solicitor *Somers.* 'We do nothing if we find out the men only, and not who put them into employment:' This is said, but to arrive at your end it may be answered, If a question be asked a private gentleman, 'Who gave you that advice?' It is not proper for him to answer. But if he advises him to trust that man no more, he shows his respect

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by it. If you make an unanimous Vote to desire the king not to trust that man, it will have great weight in it with the king. This is a kind of last remedy; a thing never put upon the king before, and a hardship! Do not you give great advantages to those about the king to tell him, 'That the commons go beyond the bounds of his dignity,' and give occasion to protect those persons? Admit the king should grant it, you must tell the king those are his enemies. Your ends may be answered by an Address, 'That the persons who gave this Advice may be removed.'

Sir *Joseph Tredenham.* We are told by every body that the king and we are upon one bottom; if so, there is no necessity to go upon this extraordinary course, but upon what we may, with confidence, assure ourselves of success in I wish our condition were better, but is there no way to arrive at our end but by unbeaten paths, which our ancestors never found their end in? What effect can you propose to yourselves in this, by the king's Answer? Nobody can think there is a ground of an Impeachment, or Bill of Attainder. If he is guilty of other errors than this, you may reach him without this Address. I see no convenience, but many disadvantages, by it.

Sir *John Lowther.* I am one of those that agree with the committee; but to hang Shales, and to have all those punished that recommended him to the king, some men think a hardship put upon the king, and some not. I have delivered my opinion, to avoid the appearance of such a rock as hardship, by all possible means to prevent the least appearance of a misunderstanding with the king. Possibly the king may be mistaken in men and recommendations. Surely, the second time, he will be cautious what he does against the opinion of his Great Council, and better avoid this rock.

Sir *Rob. Howard.* All agree to the same thing in the main, but differ in the method. I have rather been too warm upon persons formerly; and, I say plainly, the way we are in, is, in effect, what you owe yourselves, and the nation. A question bluntly put, 'Who did such a thing?' Consider, whether in desiring the thing, something of your own reasons of dissatisfaction should not appear. This seems a hasty step. If you desire, in the same Address, to know the person, or persons, who advised, and say 'you live under dissatisfaction from men that advise this, as the interest of king James,' supported, perhaps, with reasons, it would come in a more proper way, and without a blunt question. But, 'that in the mean time, you have no great opinion of your condition whilst king James's friends are employed;' then it will come with more respect to the person you address to.

Mr. *Palmes.* I presume, adjourning the debate was intended for gentlemen to recollect some other way, and I hoped some gentlemen would have it to lead you off from this called 'hardship on the king.' I would know whether Shales has a Commission under the great or privy seal, or by a bare Letter from the king. This may lead us to the knowledge of it, and those about the king may put us into some way to screen this off from the king. We are upon this point singly, either to put a hardship upon the king, or betray the trust of the whole kingdom. If there be other propositions, I must join for the question.

Sir *Tho. Littleton.* Put the previous question first; if it be carried, the house will be unanimous in the main question afterwards, for the reputation of the house.

Sir *Tho. Mompesson.* It is not usual to put a previous question for agreeing with the committee, upon an adjourned debate.

Mr. *Coningsby.* At the Committee of Religion in king James's parliament, a report was made of an Address, and, upon an adjourned debate, the previous question was put, 'Whether the words 'Protestant Religion' should stand, &c.' and passed in the negative. Judge the consequence.

Sir *Tho. Lee.* It is a great mistake, that the previous question, if asked, must necessarily be put, neither at the time of the report, for you may do it all at one time, and not at another. There may be reason not to put it now, and yet it may come to it hereafter. This matter is now under the king's examination; let him have the honour of it: he expects letters out of Ireland.

Sir *Wm. Williams.* It is a monstrous thing to be upon your Books in king James's parliament, 'Whether the words 'Protestant Religion' should stand in the Address.' You are now upon a single head, Whether this is proper for an Address now? Therefore, I think, you should put the previous question.

The previous question for agreeing with the Committee was carried 188 to 142; and the main question then passed, 195 to 146.

Sir *Rowland Gwynn.* It is apparent we are on the brink of ruin. I am not against presenting the Address, in the words of the Vote, 'by the privy-counsellors;' but those about the king may make ill reflections upon what we do. If you had taken more care in other Messages, we might have fared better in the Answers, (the care of Religion, the Laws, and the Government,) by those about him.

Mr. *Hampden.* Something to the last business.—As I understand, something was said against privy-counsellors presenting this Address to the king, 'that they had represented things so hardly to the king.' I would have Gwynn explain. I appeal to the king how we have misrepresented things.

Sir *Tho. Mompesson.* What he said was not with reflection upon privy-counsellors, but upon what was said here.

Mr. *Howe.* As near as I can recollect the words, they were, 'That the privy-counsellors had spoken hardly of the Address here, and he had reason to believe they would do so to the king.'

Sir *John Lowther.* I would not misrepresent

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Gwynn, but, on the other side, I hope those who have the honour to serve the king at the Board, will serve this house with their lives and fortunes. He said, 'He desired that the privy-counsellors should not present this Address; they who had spoken so hardly of it here, would not favour it there.' I am not so fond of my own opinion, as not only to relinquish it, but obey you contrary to my own sense. I would not only relinquish the service of the Council, but retire, if you think not well of me.

Sir *Henry Capel.* I will put that gentleman at ease presently. There shall be no misrepresentation from me. Witnesses do know the rule they go by. Whoever is of the parliament, and near the person of the king, represent with all tenderness, and put the best face of things from hence to the king. I hope this will be the rule of every man, and shall be mine whilst I live.

Col. *Austen.* Heat never does business well. Let a man's sense be what it will, he ought to deliver it as the sense of the house, and not his own. Go unanimously to the king, and let this debate fall.

Sir *Francis Blake.* A privy-counsellor told us, 'That what the king said in his closet, was sent to king James in brandy-bottles.' You ought to examine those who manage affairs, and are near business. I name Mr. Blaithwayte.

This debate went off, and a Committee was appointed to prepare the Address.

Major Wildman acquainted the house, That his majesty, having been attended with their Address for securing Commissary Shales, and his Accounts and Papers, was pleased to give this answer: "That he had some time since taken order therein, being informed of the said capt. Shales's Misdemeanors in his employment; and had written to duke Schomberg for that purpose:" And that his majesty was pleased farther to add, "That he verily believed, what was desired was already effectually done; though, the wind being contrary, he had not, as yet, received any account thereof from Ireland."

Nov. 28. Capt. Churchill, in a Petition, acknowledged his Offence; and prayed to be restored to the favour of the house, and to be enlarged from the Tower, which was granted.

Debate on a Clause in the Bill of Indemnity.] Nov. 29. Sir *Tho. Clarges.* I ask your pardon if I speak against the liberty of the subject. I have contributed to this Revolution, and have suffered for it. I sent my son to the prince of Orange, at Exeter, at great expence. Those who sue for horses and arms taken from them, have done nothing but according to law. I discommend much their malice; but, upon pretence of service to the prince of Orange, some have plundered very honest men. To have their names brought hither that have prosecuted, will increase animosities, and may do hurt. Fortify yourselves as well as you can, but name no persons. But actions, in the former Act of Indemnity, were discharged. I desire you will do so now.

Sir *Henry Capel.* I cannot blame any man for seeking for right, when wrong has been done him. I am for the question. I take it to be a great imprudence, boldness, and insolence against the present government, now the house of commons is sitting, and making an Act of Indemnity, whilst this is depending, for men to bring actions, &c. I fear there are some ill spirits that countenance one another to do mischief. Since such a motion is made, I would not let it fall flat. I remember not such impatience nor complaint formerly, when Ch. 2. was restored; why should they not have the same respect to this parliament, as to others? We shall have them dispute the Militia, and dispute the Tax, and have the frame of government torn in pieces. We have enemies abroad and at home, and I hope you will put the question.

Sir *Tho. Lee.* I am sorry, and suspect myself, when I differ from a friend. The rights of the people, and the guardianship of the Indemnity is in king, lords, and commons; not in this house alone. When men see actions at law fruitless, they will not spend their money. Direct a Bill to be brought in, and that is better than a Vote. The rights of parliament are enough. Pray let us take no more jurisdiction upon us than our ancestors.

Mr. *Howe.* It seems strange to me, that those who have broken all your laws, and subverted religion in the Ecclesiastical Commission, should be on an equal foot. What has this king taken but from enemies? If they be pardoned here for what they have done, I believe they will not be pardoned in another world. The law and the sword grew luxurious in the West, and I heard not of any body in king James's government that stood up for an Act of Oblivion; and now to be placed amongst those men,—I know not what to trust to. Let us rather try it again.

Mr. *Hampden.* I am against the question. Suppose you had one of these men at the bar, and you ask him, 'Why he brought this action?' It may be a robbery. These inconveniences will happen in Revolutions; therefore I am not for a question.

Sir *Edw. Seymour.* I shall give you but short trouble. The merits of the question have debated it out of doors. The debate came on irregularly, and slipped itself in. Put the question, 'Whether the house shall proceed to the order of the day?'

Ordered, "That a Bill be brought in to indemnify all such persons from private Actions, that have acted in order to the bringing in their present majesties; or for their service, or the safety of the government."

Address against Commissary Shales.] Mr. Dolben reported the Address to his majesty against Commissary Shales, viz.:

"We your majesty's most dutiful subjects, the commons, in parliament assembled, being filled with the deepest and most sincere affec-

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tion to your majesty's royal person, and out of the most tender regard to your majesty's and your people's safety, and the honour of your government, do most humbly represent to your majesty the extreme danger we conceive the nation and your majesty's affairs to be in, by the employment of persons in the greatest trust, who are so far from being faithful to your majesty's and your people's interest, that they have corruptly and treacherously endeavoured the destruction of both: especially Mr. John Shales, who was made Commissary-General of the Provisions for your majesty's Army in Ireland, notwithstanding he was notoriously known to be popishly affected, and to have served the late king James as his commissary. The mischiefs which have happened by the employment of this man are very great; and of such a nature, as, without God's infinite mercy to your majesty and this nation, might intirely have defeated their majesties good intentions, and the effect of the Resolutions of this house, in order to the reducing of Ireland to its due obedience to your majesty. In particular, when that experienced general duke Schomberg went, by your majesty's command, into Ireland; he left strict orders for the speedy transporting the Ordnance and Horse, designed for the service of that kingdom: and it pleased God to bless his first attempts to that degree, that, if the said orders had been executed, your majesty's Affairs in Ireland had been in a much better posture than now they are. But the said Commissary Shales, partly to satisfy his own covetousness, and partly out of disaffection to your majesty's service, did delay the execution of the said Orders for several weeks; by reason whereof your majesty's Forces were not only disabled for pursuing the advantages they had gained upon the enemy, but were also necessitated to encamp at Dundalk; which occasioned the loss of some thousands of your majesty's subjects. Wherefore we, &c. do most humbly desire, that your majesty would be graciously pleased to let this house know, who recommended Commissary Shales to your majesty, and advised his being employed; to the end that we may be the better enabled to offer to your majesty such humble advice, as may tend to the preservation of your majesty's royal person and government."

Debate thereon.] Mr. *Howe.* I doubt you cannot make this a good Address, or ever have good effect of it. If it must go, there is a word in it I would have good English; viz. 'by the Employment of Mr. Shales.' I would have it, 'Employ of Mr. Shales.'

Mr. *Hampden*, jun. I think myself obliged to speak something, being of the committee. I had rather not have been of the committee, and not have had a hand in drawing it. Nothing should have drawn consent from me to this Address, but the safety of the king. Some had scruples of conscience about going to the prince of Orange, but they were answered, when the danger was over. Nations were not made for kings, but kings for nations; and nations not by kings, but kings by nations. I take it to be for the king's interest to put you in mind of these things, as well as the nation's. In the late reigns we had good paper laws, if good men had been put in to execute them, against Popery, and for the preservation of property: yet the Judges declared, 'That the laws were the king's laws, and the king judge of the necessity of the government.' This will make the king as absolute as the Eastern princes. In your address you desire, 'That duke Schomberg should name a person fit for Shales's Employment.' He was thought to have skill in military affairs, and yet complained, 'That he could not put in a cornet.' If there be such men about the king, it is not safe, and to no end to give Money. I would remove them.

Sir *John Guise.* It is parliamentary to have the Address read, paragraph by paragraph. You have been told, 'That Shales is not the only man you are to remove, but in all places and offices.' Possibly, instead of making this singular, there is not only Shales, but all other people to be removed as well as Shales. It is what you must do one time or other. If there is any man here that does not wish for this, I shall tell him he is an enemy to the kingdom.

Mr. Comptroller *Wharton.* I was not for this Address. I think, a good use may be made of what Guise has said. I wish this Address was laid aside; it is too narrow only for an inconsiderable fellow, a creeping worm. I could wish all were laid aside that can be found out. If the Address be laid aside, or recommitted, you may have fruit of it.

Mr. *Howe.* I am never moved by fears, or hopes, to do contrary to the interest of my country. I thought there would be no good effect of this Address, therefore I was against it. These persons are near enough to the king to know, that this Shales is contrary to the interest of the nation to be employed any more. Many near the king thought it not for his interest to employ him. I wonder not that all honest men are not employed; they must have their tongues oiled and knees greased. I would find out great men that have been the occasion; name them, one by one, and I shall give my Vote as willingly as any body to remove them. [It was cried out, "Name them,"] If I do, you will all vote for them, as you did last time. I would recommend some marks for the king to avoid and chuse by, and leave this Address.

Col. *Birch.* I thought this Address was a plaister too narrow for the sore, but I submit always. Now, pray make the best of what is before you. It is thought 'this of Shales is too little a thing to lay so great a weight upon.' The Address tells you, before you name the man, of great inconvenience, and 'that we have had mischief from persons not fit to be put into employment.' I think it absolutely necessary, that all means be used to continue a good correspondence betwixt the king and his people. I confess, from the experience I have had, nothing is more mischievous than

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when things are represented hard and inconvenient to the king, and what we have offered not to be well received by him: insomuch, that, formerly, a person not liked by the parliament was sure to be preferred by the king, and every one must follow the ministry, or have an ill life. I have not the same advantage of speaking as other gentlemen, but you know my meaning. This is no hard thing upon the king; things taken in time are easily understood, and all is well when once those about the king represent them well. They may scramble for Money for the king, and we for our Privileges, as has been done formerly; but as for your Address, I would not lay it aside, but that half a dozen gentlemen wait on the king, and make not this little thing of Shales's too great a solemnity; but I would lay before the king the Miscarriages by land and sea. If the king would do nothing, it looks as if those about him would asperse the government, and do nothing to cure it. Unless Miscarriages be represented by land and sea, nothing, no, nothing, can cure it. Let, then, some gentlemen (not to come to the persons, but every one of them, not only the putting in these Officers) show what we have done at sea, and spent 1,300,000*l.* and what has been done in Ireland, how we have taught them to be soldiers, who were cowards before. I move for the Address.

Serjeant *Maynard.* That there are more than a Shales in this I doubt not, both a great and a tall man. But I am for going on upon this Shales, else we shall blow the deer, and he will go into the herd. They that besiege the king will oppose all Addresses. If you would break a faggot, break the sticks one by one; when a kingdom, nay, a king, is like to be lost, and make us all beggars. When this Address is presented, the king cannot but think it reasonable; a person that has so notoriously and wickedly demeaned himself! You have only Shales now; much more may be added hereafter. In the mean time go on with Shales. Shall we give our money to we know not whom? When Shales is gone, it may be another in his place as bad as he: therefore go to all you can find out.

Mr. Foley. It is said, 'Shales is a little man,' but we know not what great man recommended him. To say, 'We should stay till we had all our Grievances, to make a Remonstrance of them together,' that is much harder. I am dissatisfied to stay till all Grievances are enumerated; at that rate, we can never come to any body, and we shall be quite undone, till the king and we be all on a bottom.

Sir *Wm. L. Gower.* I am for taking out all the deer in this king's park that were in king James's park. Since it must be a general Address, let it be a Remonstrance to take in every thing by land and sea. Be pleased to recommit this Address, and let none but a Protestant breed of deer be left, and recommit the Address upon the debate.

Sir *Duncombe Colchester.* If you turn out the deer, it will do you no good, unless you turn out the keeper too. (Said some, 'Does he mean the king?')

Sir *Robert Rich.* You were told, 'You have sat several days upon the State of the Nation to little effect more, than that you have found out the Navy and Army were betrayed;' if that be little, I know not what is greater. It is said, 'Shales is sent for out of Ireland;' but if you do not know who advised to take him into employment, you do nothing. A general Address is none at all. You are moved to commit the Address; in my opinion, that is to give it a decent interment. If the king know neither the keeper, nor the park, we must be plain with him.

Mr. *Hawles.* You find the nation betrayed, and you know not by whom. I believe, that, at common law, the suggestion why a person is employed is to be expressed in his patent. Ed. 3. c. i. because the king granted many pardons, the persons who suggested them were to be expressed. I think the common law was so. Now, instead of *ex certâ scientiâ*, it is *ex mero motu.* This could not be a ground unless with a *Non obstante.* But since this is not pursued, it is not an unusual thing to ask this question in the Address. I think it not a crime to recommend an ill man, but to know him an ill man, is. It is said, 'We should not do what one gentleman would not do to another.' It is not the end of governments to punish, but by misfortune they must do it. At Court-Leets they swear to discover all injuries done to the lord, &c. If my pocket be picked, it is not civil for me to enquire who did it! Is this a way of arguing? Here is no hardship on the king; it has been done so before; it has been put upon Ed. 3. and Hen. 4. Those were great men in that time, and this may make this king great in this.

Sir *Rd. Temple.* In what Hawles says of Pardons he may be in the right, but not in the Grants. I would follow the method of our ancestors, *respondeat superior*, when under the conduct of another man. In an Army a general must find whom he employs, &c. I would recommit the Address, and represent all Miscarriages.

Sir *Edw. Seymour.* I was one of those against the Address, but when you have resolved, it is not to be laid aside by art. A man of art is so near a man of something else, that I desire not to be the man. Gentlemen say they would have it recommitted, but I hear no reason given for it. That is against all methods. By the same argument, all other Addresses may be committed again and again, and that is, 'a decent interment,' as a gentleman called it. When we debate a thing over and over, I know not but that, instead of reforming Grievances, we shall be grievances to ourselves. This may be done, and grievances not left undone. If that be so hard upon you, not to remedy it, you will send your trade back to Amsterdam, and bring their religion instead of it. Assign any particular, &c. but it is an inexcusable levity to do all

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this against order. I would not (as has been moved) have the body of the house go with this Address: we can do no more when we present all our Grievances. This is but a pimple, but a scab of your disease. That one person should draw a whole house, never—Reserve yourselves for a greater occasion. And as it is too little for you to present in a body, so it is too big for a particular person, as has been moved.

The Address was agreed to, and the Committee who prepared it, was ordered to present it.

The King's Message for a Commission to be sent into Ireland.] Nov. 30. Mr. Comptroller Wharton delivered the following Message from his majesty:

"W. *R.* His majesty, having already declared his resolutions to prosecute the War in Ireland with the utmost vigour, and being desirous to use the means that may be most satisfactory and effectual in order to it, is graciously pleased, that this house do recommend a number of persons, not exceeding seven, to be commissioned by his majesty to take care of the Provisions, and such other preparations as shall be necessary for that service.—His majesty is farther pleased to let the house know, That upon consideration of the Address of Nov. 11, he gives them leave to nominate some persons to go over into Ireland, to take an Account of the number of the Army there, and the State and Condition of it; who shall receive his majesty's orders accordingly."

Col. *Austen.* If ever thanks were due, it is now. The king grants before you ask, or if you had asked, you could not have mended it yourselves. A man in his state without asking; This is of so great consequence, that I would give particular Thanks, and that very signally, by the whole house.

Sir *Rob. Howard.* The motion for the whole house to return the king Thanks, is very just and very seasonable; and I second it.—Ordered accordingly.

Debate whether any Member should be put into the said Commission.] Dec. 2. Mr. *Sacheverell.* I desire you would consider the substance of the Message, and first know whether the house will order any Member to be put into the Commission. I speak not for myself; I have neither health nor reason to act in that honourable employment, that the king was pleased to put upon me. The thing is of mighty importance, and is it not too weighty to be put upon us? I speak truly, I thought it too weighty; impossible, very impossible, when we cannot know the state of things, and, by consequence, what is wanting to supply Ireland. If those employed are not supplied, you will disgrace your members. Consider the honour of every member, and put him not upon difficulties that he cannot extricate himself out of. I move, 'That no member of the house be named for that employment.'

Sir *Tho. Clarges.* By the king's Message it is not expected that members should be named, but it is recommended to you to nominate some persons to him. I am much less able to be in such an employment, by my age and infirmities. It is not decent nor proper for us to recommend ourselves, and it is impossible for men not exercised in so great affairs, in so short a time, the nature of Ireland considered. It was thought formerly that multiplicity of offices, as well as pensions, was inconvenient in this house. I thing it not fit that we recommend any of the house.

Mr. *Garroway.* Since this has been moved, I think it for your service to pass such a vote. It is said abroad, 'We have too many Officers already here,' and I would not take upon us to name any more; what employment we have had is enough. I would return Thanks to his majesty for his gracious favour, but this is too great for us. I speak for your honour; such a vote will be satisfactory without doors; and so leave it to the king.

Sir *Christ. Musgrave.* I think you will do great right to yourselves, to vote, 'That none of this house shall be nominated to this employment.' People do think we are labouring for places for ourselves. I think, if we can discharge what is before us, we are very happy. I would therefore vote, 'That none of the house shall be nominated.'

Sir *Tho. Littleton.* I think the sense of the house is, not to meddle with this employment. I think it improper to pass a Vote, 'That none of this house shall be named.' I think it better moved, if you throw the compliment into the king's hand again; 'That it is too weighty for us to meddle with;' and if you will not meddle with it, it is an improper question to put, 'That no persons of this house shall be nominated.'

Sir *W. Williams.* You have not only declared judgment on Shales, but you have addressed the king to know who advised him to employ him; but I doubt this will look abroad as if we find fault with all officers out of the house, and yet we will name none. Make a Vote not so much to satisfy yourselves as the world without doors.

Mr. *Howe.* I think you give the people occasion to say 'You do little but go backward and forward, in your Address about Shales.' I was against it. The king has very graciously gratified the house with a thing put into your hands for your advantage—and they get nothing by it; I am little concerned who are put into places, if for the public good. Without asking the king questions, he cannot answer us. If persons be put in, &c. from hence, we know of whom to ask questions.

Sir *John Thompson.* If the Miscarriages in Ireland be taken upon ourselves, I fear it will come to this, that if we recommend persons to take Shales's place, if no money be to act with, they cannot go on. We may thank the king for what we do not accept of, and I move for a Vote.

Sir *John Lowther.* Some think this business too great for them, and it is for me to

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speak to. I would have this question with some explanation: 'That no member of the house be employed for Commissary of the Provisions,' may comprehend some employed already, and of the Irish committee. I desire this explanation, that it is your advice no members ought to be, so expressed that the king may do accordingly. It has been said, 'Perhaps there is no Money, and there may be Miscarriages, and a man will not take the load upon him;' but every body knows from whence money comes, and you may prevent those difficulties, that they have not a greater load than they can bear.

Mr. *Foley.* I am for putting the question, 'That no member be employed, &c.' and it needs no explanation. For the Irish committee I would not have nominated in the house. Though not fit for us to nominate; yet, as a state of the kingdom, you may advise the king with qualifications.

Mr. *Howe.* We are for removing persons, and yet put it into their hands to nominate more such, if we do not recommend.

Col. *Birch.* I have a place, and will keep it as long as I can, and shall give no man cause to complain, as I shall answer it at the great day; and in this matter, I take the words to be recommendation. I mistrust myself, and not them, &c. when I differ. The king does really intend what he has sent you in the Message. I believe really, as things are managed, both at land and sea, we cannot last long. Be pleased to lay this aside, as too heavy for us. But I see, Offices are pointed at. I never knew any thing got by such Offices, but paper, pen, and ink, and a room. If there had been Money stirring, I should have been smelling after it. Put the weight off from your shoulders in this house, on whom the main weight will hang—I speak not of the Stores, nor of mustering the Army; that may be cured without sending into Ireland; but, for the latter part of the Message, what is used to be done in this matter? Six or seven men sat close to examine things, and the Report was brought to the house. Perhaps the king, or some of his ministers, may sit in this committee: possibly this way may give the king some assistance. As to the first part, do as you please; but, as to the second part of the Message, do something to make it practicable.

Sir *Henry Capel.* I am for this house to have its liberty, and for the king to have his liberty too. Trusts are best put where there is most property, and there there are more riches, and the property of England is in the commons: Whom do they entrust? They think themselves safest in the hands of men of great estates, and great judgments; this will be the opinion of the counties and boroughs. It is said, 'It is not fit for us to recommend persons.' I am not read in records, but I have heard that, in former times, the thing has been done; will you not let the king go by such rules, that the counties have gone by? Will you put a negative upon him? To vote, 'That the commons will not meddle with capt. Shales,' a bad man, what advantage will you have of a negative? Suppose the king chuse a man to-morrow, that is able, shall he not come into parliament by reason of this Office? I hope this will awaken persons, so as to adjourn the debate.

Sir *John Guise.* I hear it said, 'These are questions usually put;' but I believe that in all reigns the kings have not had such care of the government. I think this very extraordinary. The Message has two parts; recommending persons, and settling a Commission. I think, the Victualling the Navy has orders to be undertaken without involving the commissioners in the Miscarriages of the former. The king says, 'I have been mistaken formerly; pray assist me.' If the house will do nothing in this, we must resolve to be ruined. You say you are betrayed; will you not remedy it? I hope that being a member of this house does not make a man so profligate that he may not accept of it. If you will not take it into your hands to support yourselves, it looks like giving up the cause. Pray adjourn the debate.

Sir *Rob. Howard.* The first part of the Message is to recommend, the next is to send persons into Ireland; and upon this you raise a third, 'That you will recommend none of your Members.' You first thank the king, and then you unthank him again, and will not nominate. This raises a suspicion that, as soon as you have any thing to do with the king, it raises a prejudice on it—and that a man in office has not behaved himself as he ought, and as for his place he would willingly resign to a person, to behave himself honester and abler than he. You give the king Thanks, but it includes neither. It is not proper to raise a negative upon a Message that gives you no occasion, and unthank the king again, and make no use of it at all. The consequence is, the king and the people may be separated in their opinion and choice. Pray leave it to the king, free, without a Vote.

Mr. *Sacheverell.* The gentleman's discourse totally differs from the question propounded. 'Tis moved no farther than not to recommend any persons to the king that are Members, not to bar the king at all, nor the house from examining the matter. The true single question is, 'Not to debar the king nor yourselves from examining the matter;' and pray put that question.

Sir *Christ. Musgrave.* The question is not, Whether the king shall name any of your Members, but That you should not name your Members. I would not adjourn the debate, and leave it still upon the anvil.

Mr. *Hampden.* This is a previous Vote that will end all debates upon yourselves to preclude any of your members to be nominated by yourselves. Your Vote will go abroad, and the people are in expectation. Possibly provisions may stand still, and betwixt the new and old officers, nothing be done. This Vote is not intended for the king, but to make use of in future debates.

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Sir *Rob. Howard.* You have voted the king Thanks, which seems to accept what the king proposes; you must explain your Thanks.

Mr. *Papillon.* I hope too sudden a Vote will not hinder you from the benefit of the first part of the Message. I offer to your consideration, whether there are not matters of greater weight before you, than to name persons for Provisions. This is a little thing in comparison of the great affair. I would adjourn the debate, and go to the bottom of the whole Message.

Sir *Tho. Lee.* Though I have an Office, yet I think it my duty to serve my prince when I can. I know not but the king may trust me as well as my country. I am not for adjourning the debate, for the next question will be for excusing yourselves.

Col. *Austen.* I think we are going to make the king an ill return for his gracious Message. He desires your advice, and you complain that the War was not carried on, &c. and, at the same time, you call yourselves the Great Council of the Nation; and now you will give him none. I would adjourn the debate.

Mr. *Hawles.* You have complained that some men have been put into office, and the king did not know them, therefore the king desires you should recommend persons to him. I think fit you should answer the king. I do not say all persons should be named in, or out of the house. If you pass a Vote not to recommend persons, you put a disgrace upon persons, as if they wanted integrity, or understanding, whom the house should recommend. There has been but one person recommended, viz. Mr. Johnson, and no notice taken of him in the midst of Preferments. Shall we imply, by such a Vote, that there is no person in the house fit to be trusted? I am against it.

Col. *Birch.* I speak now for fear I shall speak no more. I was never in my life under such thoughts. Now, in great haste, we pass this question; and I think it not sense when it is passed. Those that are for the question see some other way for their own safety than fighting it out to the last. For my part, I think of none. Can there be a lighter way than this? You will see the reason of all that has been done, and it will lead you, I hope, into something better; I am sure it cannot be worse. On a sudden you say, you will recommend nobody, and they will say abroad, 'Things have been long ill, and now the king offers it to you, you wash your hands of it, and shake hands with the whole.' This cannot be taken well by the king, nor those abroad. This requires an adjourned debate, and a consideration in this great cause two or three days; and I hope, God will direct us.

Sir *Tho. Clarges.* I am for putting the question, for the reasons given against it. When you have done this, I hope you will wash your hands of the other too. This looks like taking the stone out of their foot, and putting it into yours. If those who are our own members be named, and there happen miscarriages, we shall make a faint prosecution of one another; and we shall have another advantage, to revive the ancient usage of parliament, that no man accept of an office, as sheriff, or any employment, without the consent of the house. I have heard of judges, and Attorney-Generals, making apologies for accepting their places till they have had your leave. In the late troubles, the parliament was involved in a great war with king Charles 1; then was made the Self-denying Ordinance, when they were brought low and worsted; they prospered upon it, and, I hope, so shall we, and I am not for adjourning the debate.

Mr. *Foley.* I wonder the house was so forward to give the king Thanks before in a Message. It is impossible the king and kingdom should be safe as long as persons are in council that have sat in king James's council.

Sir *Christ. Musgrave.* Though I shall not recommend persons, yet I would give what advice we can for carrying on the War; but it was not the advice of your ancestors to recommend persons for the executive part. The king's council and generals are fittest, knowing the abilities and qualities of persons. I move for Thanks to the king, &c. and we cannot be safer than in the hands of persons that his majesty shall think fit.

The Commons resolve that no Member be put into the Commission for Ireland.] Resolved, "1. That this house doth not think to recommend any Member of this house to be employed in the Service of Ireland, for the purposes expressed in his majesty's gracious Message of Saturday last. 2. That this house doth humbly desire to be excused from recommending any Persons to his majesty to be employed in the Service of Ireland; but humbly leave it to his majesty's great wisdom to nominate fit persons for that Service."

Ordered, That Mr. Speaker do acquaint his majesty with the said Resolutions, when he presents the Thanks of the house to his majesty.

Dec. 3. The Speaker acquainted the house that he had attended his majesty with the Thanks of the house, and likewise acquainted his majesty with the said Resolutions; who was pleased to return his Answer to this effect:

"Gentlemen; I shall take all the care that may be, to carry on the War in Ireland with vigour, and to employ such Persons as may be most proper for the service: and I doubt not but I shall have the assistance of the house of commons to carry it on in such a manner, as may be according to your desires and my Instructions."

Dec. 5. The Commissioners of the Victualling in custody of the serjeant at arms, petitioned the house to be admitted to Bail: and the house dividing upon the question, it passed in the affirmative. Yeas 117. Noes 105; on the following terms, viz. That each of them should be bound in 5000*l.* penalty for his appearance, and find two sureties in 2500*l.* a piece more.

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The Quakers exempted from double Taxes.] Dec. 7. A Clause being reported from the committee on the Supply to be added to the Land-Tax bill, for exempting the Quakers from double Taxes on their subscribing a Declaration of Fidelity to their majesties; the house divided upon the question, and it passed in the affirmative. Yeas 170. Noes 78.

Dec. 9. The blanks in the Land-Tax bill of Sums to be appropriated for the use of the Navy, were filled up as follows:—Resolved, That the blank for the sum to be appropriated be filled up with 400,000*l.* To be thus employed. For paying the Seamen, 200,000*l.* for providing Victuals, 100,000*l.* and for providing Stores, 100,000*l.*—The same day, a Clause was proposed to be added to the said Bill, to empower the Commissioners to review the Assessments, and examine upon oath, and if they find any person omitted or under-rated, to reassess them, by such ways and means, and under such penalties as before provided; and the house dividing upon the question, it passed in the affirmative. Yeas 136. Noes 127.

Debate on the State of the Nation.] Dec. 14. The house went into a grand committee, on the State of the Nation.

Mr. *Holt*. The honour and safety of the king and kingdom depend on this day's resolution. The Miscarriage of the last year is recommended to your consideration. The present State of the Nation is a state of war; all conclude, that Money is the sinews of war; I fear there have been great embezzlements, and I hope you will enquire into it how it has been issued out. I have heard the Stores are empty, and I believe there is a great want of money, but I observe, there is catching at it. We have appropriated money for the Stores and Yards, &c. but it has been like boys scrambling for nuts, some get three or four, and others *none* at all. If we appropriate this Money, it seems by that we are jealous, and why should we not enquire? You have been told by an honourable person how little there is, and how much wanting.

Mr. Foley. You have ordered the committee, to day, 'to consider the State of the Nation.' I would enquire why Ireland was not relieved in proper time; it was a great mischief. There was a Fleet, and yet Ammunition was slipped from France, and no care of conveying relief to Londonderry; and all came to nothing, till almost all the people perished. It was neglected six months, and those officers that took care of their soldiers in Ireland, did well, but no enquiry into those that took no care. Horses were ready for the Artillery, but they stayed six weeks. As for the Fleet, no part of it but was under great Miscarriages, all in disorder—no care of Convoys for Merchants; they have done nothing to annoy our enemies; where to lay the blame, I cannot tell. As for the ministers, they have done the same things as in Charles 2's time, which makes me think them Pensioners to France still. We are not now in an ordinary case. If this government by any accident should miscarry, we are all like to fall with it, the Protestant Religion, and all. I move, 'That you will make an humble Representation to the king, that things may be managed more to the satisfaction of his people.'

Sir *Robert Rich*. What is said, gives me occasion to tell you something of my own knowledge. A captain who lived 20 or 30 miles from Londonderry, and who loved the place, had applied to the council of Scotland for the relief of it: they loaded him with meal; he sailed by our fleet, and was brought aboard to give an account why he did go by the fleet without calling, and he must give account to the general; he said, 'he knew no general.' They caused him to lie there five weeks; he asked them the reason: they told him, 'There was a prodigious boom cross the River, choaked up with sunk vessels, and a battery on the River, with small shot, on each side.' He asked, 'Whether, in five weeks, any long-boat was sent to view the boom?' The boy he sent, who swam in, gave a dismal account of the condition of the town. He was ordered to go up the River, and if he could not get up to the town, to fire his ship, to be useless. The man of war, and two more, stopped short of the Fort; the meal-ship was before. When he was near, he dropped anchor. The anchor drew, and the tide carried the ship's stern athwart the boom; and this dismal boom, only with the weight of this ship, broke in the middle, and no wind at all. I hear not of much punishing, nor much rewarding. This man has lain nine weeks to solicit for his reward for his pains, and no notice is taken of him.

Mr. *Jephson*. I did pay this captain 300*l.* and more. I think this captain was one Douglas: I think this is the man.

Sir *Robert Rich*. This sum was paid him for the freight of his ship; but for his recompence not one groat.

Sir *John Guise*. I shall speak of one head most natural to this debate, and that is of 'Money said to be the nerves of war,' the disposal whereof for your safety is to the best advantage. I know not whether it be regular, in a committee, to mention it. Instead of Money given to pay the Army, to have none paid! You must, to do this, state the Accounts of Money and Stores, when the prince of Orange came in, and then what is come in of that you granted, and how disposed of, and the Charge of the next year, whether two millions will do it.

Sir *John Thompson*. I take it for granted, that the Money you gave the last session has answered all the ends then proposed; and they have had more than could be employed. When persons still are in council, who have formerly managed, when there was a great army to enslave us, I can never expect good from such men. I offer you, Whether 50,000 men is not enough?

Sir *Tho. Clarges*. As for Accounts, they are referred to a committee already. When that

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is reported, you will know how they stand, from those of the Treasury, who give you account; I hope that will be satisfactory. I remember, in the Civil War, when the party of Ch. 1. were near overcoming the Parliament Party, they presently fell upon a new model of the Army and Affairs; the precedent may be made use of now; there is scarce a day but we hear of misfortunes. You have been told, 'That king James's false dice are still played with, and go about.' This access of Foreigners in the Army is another great discouragement; their way of fighting is from hedge to hedge, and from hill to hill: the English have another way; and king James, enquiring of gen. Morgan, why the Irish were so good soldiers abroad, and so ill at home? he replied, 'His majesty was mistaken, for when they have English to deal with, they charge close, and then fall in with butt-end of musket.' What infelicity we are under I cannot tell; what advice the king has I cannot imagine; but we may do our own work by our own countrymen. I moved, 'That 400,000*l.* might be applied to Ireland;' and that, I can rationally make appear, might have reduced the West of Ireland in three months: but that is passed now. The Fleet lay six weeks in the bay of Kinsale, and we might have had Cork for asking for. One Townshend, captain of a ship of 20 guns, was blown, by weather, into Castle-haven, and sent a boat ashore to enquire after his Protestant relations; they told him, 'They were prisoners in the castle:' up they went, and after a shot or two, the Irish thinking more followed, they took the Castle, and redeemed their friends: if 15 musketeers have done this, what might 500 men? But, I am told, the commanders had positive instructions not to set a man ashore. Here is 400,000*l.* a month, and no method was taken as in other councils. I know not whether it is by weakness of council. Formerly there were 100 in a company, now but 50: the use of this was, that men might be drawn out disciplined immediately for service, and this would put life into your business. As to this of Foreigners, I know not what security we have in them; but I am sure this king came in by the Church of England, their pens, sermons, and sufferings. When all things are to be feared, men will fear nothing. Some gentlemen, out of scruple of conscience, have not taken the Oaths; they acquiesce under it, without murmur against the laws. There is another sort of men that live under a constant breach of the law. By law no man can be in office, who takes not the Test and Oaths: it will be no answer to say, 'the chancellor and lord chief justice did not come to my house to tender me the Oaths.' I would have all former differences forgotten. The Dissenters are against monarchy, but it is the government that those men would have all in their hands. Having given my opinion of the general State of the Nation, I desire, 'That we may make a Representation of it to the king.'

Sir *John Guise.* I suppose this gentleman was not upon the spot when the change was, but, I assure you, the Church of England ran away from us, and the Dissenters stayed. I hear the word 'Monarchy' named; I would know who is against monarchy? I would not have these distinctions among us; but pray go on to the State of the Nation.

Sir *Wm. L. Gower.* If I do not mistake, I hear a project to reduce Ireland with 400,000*l.* If that can be, I would give him 100,000*l.* for his share. I think, if the nation be in ill condition, you would do well to make a Representation of it, to inform the king as well as ourselves. Your way is to look back to the Prince of Orange's coming to the administration of the government, to see what Money was then in the Exchequer, and what in the Stores: I would not skin the sore, but search it to the bottom. If you have a plain charge and discharge, that will satisfy you.

Mr. *Howe.* I think, the worst State of the Nation is, to throw the Fanatic and Papist at one another's heads. The Church of England have so well vindicated themselves from Popery, that I hope we shall show ourselves not the men we are represented, to ruin the Church, and ruin Monarchy. I know not what Religion does here; that is for the pulpit. Secure the government from king James's coming in, with Popery at his heels, and the French king riding on his back: and as for those who have been employed, faults are easily made and easily found, but rarely remedied. I would conceal our faults from our enemies, and mend them as soon as we can, and regulate where Money has been misapplied.

Sir *Tho. Clarges.* I desire to explain myself. Morally speaking, with 400,000*l.* Ireland might have been put into your hands in 3 months. I have no place of profit, and desire none, but I can make good what I say. I hope, when we have fears, we may have liberty to make discovery of them. When we have a sort of men against Monarchy—[He was called upon to name them.] I hope, all are free here, and all of the Church of England; there are a sort of people against the Penal Laws, and the Test, and, I am afraid, that now they will not take the Oaths, they have a loose foot to comply with some change.

Sir *Henry Capel.* I speak to Clarges's distinguishing persons. I have a feeling about me;—[They laughed] I mean, my family. Distinction in the Civil War, how ended it? Fatally. Though they could not bring in Popery, in Ch. 1's time, they brought it to pass, in a good measure, in his son's. The Long Parliament had a good natural disposition to do good for the country, and then we were told, 'It was coming to be like 1641.' Pray let us have no distinctions.

Sir *Tho. Clarges.* That gentleman and I sat near 18 years in that parliament; and he, I hope, will bear me witness that I was then against Popery. I say, in king James's parliament, who closed against the Test, and who

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closed for Liberty? I fear, there is some secret reason for it, and in it.

Sir *Rob. Howard.* There has been speaking, on all sides, of this, and that. I speak plainly, and will show plainly where this will end, and how unfortunate—When this began on either side—Not those that would take away the Penal Laws nor the charters, let their opinion be what it will on either side, and some in this house may yet be called upon. It is spoken of 'Dissenters who complied with king James,' and Whig and Tory revived—And then can we say, That any man is for the Government who was for the Regency? [He was interrupted, but went on] I only said, that those things would prove fatal, and, in the end, destruction. I am for understanding every thing; and what you did from the hour the prince of Orange came, to see that all has been received to this day, and disbursed, so exactly, shortly, and visibly; and this shall be done so just, that he is not worthy of the place he is in that opposes it. It is fit that you have it from the first day of Michaelmas, and so on.

Mr. *Smith.* I am not of Clarges's opinion, 'That we have none to fear but Sectaries, and Common-wealth's men.' I think, there are Church of England-men, and destroyers of the Church, who complied with king James, because they could have no Toleration under other reigns. I hope, the king will have such information of this day's debate, that we shall have no more Foreigners; and I hope the English shall be paid, that the officers may not pick the soldiers pockets to subsist themselves; and, I fear, that is the occasion of false musters.

Sir *John Lowther.* Parties have had their faults on all sides; I hope we shall have no more distinctions for the future. If we consider the State of France, it is not so formidable as represented. Powder is now 10*l.* the barrel, which, before the war, was but 20*s.* The French king has melted his finest plate, which cost three times its worth in the fashion: he is in distress for naval stores from the north; and all the northern ports of the world are shut upon him: if you are masters of the Channel, and supported by the Confederates, he will soon fall. King James has neither money nor men but from him. I hear it said, 'We have made soldiers of the Irish:' but the little Fort of Newry drove away 1800 Irish, and it never was attacked again. Consider now, whether any thing is requisite in such a nation as this, but unanimity. When the Account is brought into order, you will know your state, what is past, and for the future. When you have found all out, I hope you will not leave a man criminal unpunished in the government. If you find any man who lies lurking for a change, or is unfit to be employed in the government, remove him.

Mr. *Hampden.* It seems a State of the Account is desired, from the time the prince of Orange took the administration of the government. I would have all the Accounts, and explained; they are not all in one hand, but you may deduce it to every man. Things may be obscure; though gentlemen understand Accounts, as the way of the Treasury, a man may be puzzled in a merchant's book. There is an Abstract ready of the Accounts, when you desire it.

Mr. *Garroway.* I am very glad of this debate, 'to consider the State of the Nation.' I thought to have heard of foreign affairs, of Ireland, our Allies, and Scotland, and now all ends in Accounts. If you will do no more, let us consider in the house how to raise Money to conquer Ireland; but pray consider how we came into this ill condition, and how to get out of it. Consider Scotland: I have seen some papers why foreign Forces are there; and I have seen papers why the parliament of Scotland was put off: this confirms me what should defend us from France and Ireland. I am not against taking Accounts, as is moved; but, if you will, I will make you a motion; I will tune myself to give no offence. As for the Account of Ireland, I am sure it is a wild one. I would know when a muster was taken, and what Account was given to the king; and then consider what men have perished, and how the Muster-Rolls are filled up. It is said, 'there are but 7000 men in England;' I am so fond of the Church of England-men, that I would not spend one of them in a war. When you have fixed on a Head, I will do you the best service I can.

Mr. *Hampden*, jun. The business of parliament is not this of Accounts, where we can never come to the bottom. Two things a parliament can do; give Money, the great support, and persons to be employed next about it: I never saw a parliament do any thing else to purpose. I am afraid, if some of the persons continue, we shall not find people to lend money, nor know how to raise it. It is a man's own fault to suffer men to ruin him that have ruined him before. Look into your books, and you will find those now employed, voted 'enemies to the king and kingdom, and favourers of Popery.' If those parliaments were mistaken, it is strange! And hindering this king, who was come to deliver us, and bantering this king—That these three men who came to Hungerford from king James,* should be the three greatest men in England, I leave the world to judge. When Portugal set up the duke of Braganza, and freed themselves from the Spaniard, did they employ the king of Spain's ministers? Did Henry the 4th of France make use of those of the League for his ministers? The Hollanders, when they were redeemed from Popery and slavery, did not employ the duke of Alva's ministers. If we must be ruined again, let it be by new men. I fear, the condition of the French king is not rightly represented to us; now he is providing

* "The marquis of Halifax, the earl of Nottingham, and lord Godolphin, were ordered to go to the prince, and ask him, what it was that he demanded." Burnet.

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stores for his ships, if we take wrong measures, and are mistaken, it may be of fatal consequence. The rebellion in Ireland might have been easily stopped at first. I am for the parliament doing what they can do to advise the king to take good men, and fresh men about him. I am not for naming any, but for such as have not ruined us already, and not Commissioners, who would persuade the prince of Orange to go out of England.*

Sir *Christ. Musgrave.* I find, all this debate is contrary to your intent, and terminates in nothing but casting up Accounts, *summa totalis*, to give more Money. I am glad to hear from an honourable person, (Lowther) 'That the French king is not so great as represented, and cannot support the War a year.' I am glad our condition is so much mended; but it is worthy your consideration not to let the safety of the nation depend on Foreigners. We are in a state of war, and I would therefore see our allies, what they are we must trust to; but, notwithstanding this representation of France, I believe him a potent enemy, and therefore I would see our allies that we are to depend upon: and next, the condition of the Army, what it is, and then naturally will come before you the numbers, whether they are sufficient to protect you. As for the Accounts, upon any motion of the house, you may make a new Committee to inspect them. What our armies are, and what our allies, not what they are in paper, but what are dead, and how filled up:—pray keep us strictly to that debate.

Mr. *Hampden*, jun. When the stomach is well rectified, all the juices will be well rectified. I meddle not with the government. I am not for a Common-wealth, in the posture now of affairs we are in. I am for removing those who were of king James's council, and who would have persuaded the prince of Orange to return.

Sir *Tho. Clarges.* The motions are so general, that no question can be put. 'For those that came to treat with the prince of Orange, (without naming any persons, or what they have done) to be removed,' is a strange motion.

Mr. *Foley.* I would as willingly pass by what has been done, as any man; but the management has not been from ignorance, but treachery. I would let the king know what our fears are, leaving it to his wisdom and discretion, without naming persons.

Sir *Edward Seymour.* I shall preface my discourse with something of Order, which I find not well observed. When exception is taken at what falls from any gentleman, possibly the latter part of his discourse may explain the former. We are to consider 'the State of the Nation,' which I take to be very ill; whether by ignorance of those that manage affairs, or favour to king James, I shall not determine. Whether we look into Scotland, the Navy, the Army, or abroad, you will find it in ill condition. If the same hands still manage the government, either king James, or a worse thing, may come amongst us. We have no part of the executive authority of the government, but we may advise the king. To me it is all one whether we be undone by the disciples of Hugh, or the converts of father Peters; by the Counsellors of king James, or the Favourites of king William; I say, it is too well known, too bare-faced, that some are setting up for,

* "The member that spoke the loudest on this occasion was Mr. Hampden, jun. who, though his life had been in danger under the preceding reign, though both he and his father had much contributed to the late Revolution, and though both were in favour with the present king, yet made a long speech against those that had the management of affairs, by saying, he could not but wonder to see those very persons in the ministry whom the late king James had employed, even when his affairs were most desperate, to treat with the (then) prince of Orange. He alledged the example of William first prince of Orange, who never made use of the duke of Alva's ministers; of Hen. 4. of France, who never employed those of his competitor the duke of Mayenne, and of several other princes: and moved for an Address, to desire his majesty to remove the persons he had marked out, from his presence and councils. This speech might, perhaps, have made an impression on the minds of some members, but because at the same time he complained, that several Commonwealths-men were employed by the government, the house, who knew both him, his father, and their predecessors, to have ever adhered to the Republican party, broke out immediately into a general laughter. As soon as the commons had recovered their gravity, several members stood up in defence of the illustrious persons on whom Mr. Hampden had reflected, alledging, that the reason why they had been deputed to the prince of Orange was, not because they were in king James's interest, but rather, because they had all along disapproved his majesty's conduct, and as such, had the general approbation of the nation, and were most likely to be agreeable to his highness.—The same day sir Thomas Clarges represented to the commons, that it was dangerous to bring so many foreign troops into the kingdom, and that it was both safer and more expeditious to employ Englishmen in the reduction of Ireland. He supported his opinion by the example of Cromwell, whose English troops not only had a natural antipathy against the Irish, but likewise a constant ascendant over them; but somebody very justly replied, That Cromwell's army was composed of well-trained, weather-beaten soldiers, whereas the present English forces were made up of raw, undisciplined men. Sir Thomas Clarges made this motion, upon a false report that besides the 7000 Danes, the king had sent for 8000 more, either from Hanover or Sweden." Life of king William, vol. ii. p. 163, 164.

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'The Keepers of the Liberties of England,' rather than the Monarchy of England. The general scheme of the State of the Nation is as much as we can represent to the king. I will urge that part no farther; those who seem to avoid it have laboured to increase it. Does any man believe, that, if the War be carried on by the same hands, you will not have the same success? It is not in our power to remedy the Miscarriages, but it is to represent them to the king to be remedied. I know not what means 'a Representation of persons to the king that went down to the prince of Orange:' possibly, it was the best thing they ever did, to mediate peace. You have matters enough to represent, the matter of the Navy, the Army, &c. The king very well knows who have done it; who have lost his honour, and spent his treasure: and I move for a Representation of this kind.

Col. *Tipping.* I wonder any man should vindicate any persons that would mediate for king James; they cannot wish well to the present Government: and I move you to declare king James an irreconcileable enemy to the kingdom.

Sir *John Trevor.* I would leave all to the king's wisdom. We come not here to give him rules whom to suspect, and whom not to suspect. He is not to give a reason for that suspicion.

Sir *Tho. Lee.* For the little share I have in management of affairs, I speak with no envy or fear; I can justify myself as an honest man. I have sat 30 years in parliament, and I ever thought 'the keepers of the liberties of England,' the best preservation of England; that is, the king, lords, and commons. When London was fired, balls were suspected to be thrown about; and those that cried 'fire' out loudest, threw fire-balls about. We are now making a representation of Miscarriages, a noise over the nation: I am concerned for the king; as if the kingdom was put into the last degree of despair, and we tell him not where it is, and will not tell him, and leave him to find it out. In Ch. 2's time, this was said to be 'Talking the Government out of doors.' Show him the fault, and the persons, and not in generals, lest you throw out the king and the kingdom together.

Resolved, "That an humble Address be presented to his majesty, to lay before him the ill Conduct and Success of our Affairs, in reference to Ireland, the Armies, and Fleet; and humbly to desire his majesty, That he will please to take it into his consideration, and, in his wisdom, to find out the Authors of Miscarriages, and to appoint Affairs to be managed by persons unsuspected, and more to the safety of his majesty, and satisfaction of his subjects."

Farther Proceedings on the Bill of Rights.] This Bill passed the commons without any opposition; and being sent to the lords, they justly considering how far king James had gone towards introducing the Popish Religion into the nation, took special care to prevent the like for the future, by adding a clause to the Bill, "That the kings and queens of England should be obliged, at their coming to the crown, to take the Test in the first parliament that should be called at the beginning of their reign; and that if any king or queen of England should embrace the Roman Catholic religion, or marry with a Roman Catholic prince or princess, their subjects should be absolved of their allegiance; and that the crown and government of these realms should from time to time descend to, and be enjoyed by such persons, being Protestants, as should have inherited the same, in case the said persons so reconciled to the Church of Rome, or marrying a Papist as aforesaid, were naturally dead." This remarkable clause passed without any opposition or debate, which, considering the great importance of it, was very surprising *.

Upon the third reading of this Bill a Rider was offered to be added, "That all Pardons upon an Impeachment of the house of commons are hereby declared to be null and void, except it be with the consent of both houses of parliament." After long debate, this question was put, Whether this Rider shall be made part of the bill? It was resolved in the negative, Content 17, Not content 50.

Protest thereon.] Before the putting the aforesaid question, the lords following desired leave to enter their Dissents, if it were carried in the negative, and accordingly do enter their Dissents in these Reasons following: "1. Because to impeach being the undoubted Right of the Commons of England, and by which alone justice can be had against offenders that are too big for the ordinary courts of justice, Impeachments would be rendered altogether ineffectual, if the king can pardon in such cases. 2. Because such a power of pardoning would cause a failure of justice, which the law of England will not allow of in any case. 3. Because the government becomes precarious, when there is wanting a sufficient power to punish evil ministers of state, the bringing of such ministers to justice being then a matter of grace, and not of right. 4. Because such evil ministers are in a much securer condition than any other offenders, it being the interest of ill-disposed kings to protect them from justice, since they are so much the more useful and necessary to such kings, by how much they have been instrumental in subverting the government. 5. Because the king can only pardon such offences as are against himself, but not in case of an appeal, nor wherever the wrong or injury is to a third person. 6. *A fortiori*, the king cannot pardon an Impeachment, because all the commons of England have an interest in it, and it is at their suit. 7. Because it is inconsistent with the government of England to vest a power any where, that may obstruct the public justice. 8. Because such a power of pardoning sets the king's

* Tindal.

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prerogative above the government, which is inconsistent with the reason and nature of this constitution. 9. Because the rejecting of the Rider, and the Vote of this house against the Dispensing Power in general, do not seem to be very consistent, since the power of pardoning upon Impeachments is altogether as great as that of a Dispensing Power. (Signed) Macclesfield, Ossulstone, Bolton, Delamer, Cornwallis, Bath, J. Lovelace, R. Montagu, Herbert, Stamford, Granville, Crewe."

The Speaker's Speech to the King on presenting the Bill of Rights.] Dec. 16. This day the king came to the house of peers, and gave his consent to the Land Tax Bill, and the Bill of Rights and Succession. Upon which occasion, the Speaker of the house of commons addressed his majesty as follows:

"May it please your majesty, your dutiful and loyal subjects, the commons in this present parliament assembled, taking into consideration the great and necessary Expences your majesty will sustain in the prosecution of the War wherein your majesty is now engaged, did, at their first meeting in this present session, unanimously agree to present your majesty with a Supply of two millions, the greatest part of which they resolved to charge upon their lands, as the most speedy and effectual way of raising present money for this occasion; but, finding that great Abuses had been committed in assessing the late Supply of the like nature, they have endeavoured to provide against those abuses in raising of this present tax; the consideration whereof hath taken up much of their time, and produced a Bill of an unusual length, which I now offer to your majesty's gracious acceptance.—They have likewise agreed upon a Bill for declaring of their Rights and Liberties, which were so notoriously violated in the late reign; humbly desiring your majesty to give life to it by the royal assent, that so it may remain, not only as a security to them from the like attempts hereafter, but be a lasting monument to all posterity, of what they owe to your majesty for their Deliverance."

THE BILL OF RIGHTS.

The following is a copy of this memorable Bill:

An ACT declaring the RIGHTS and LIBERTIES of the SUBJECT, and settling the SUCCESSION of the CROWN.

"Whereas the lords spiritual and temporal, and commons, assembled at Westminster lawfully, fully, and freely representing all the estates of the people of this realm, did upon the 13th of February, in the year of our Lord 1688, present unto their majesties, then called and known by the names and stile of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain Declaration in writing, made by the said lords and commons, in the words following; viz.

'Whereas the late king James the 2nd by 'the assistance of divers evil counsellors, 'Judges and Ministers employed by him, did 'endeavour to subvert and extirpate the Protestant Religion, and the laws and liberties 'of this kingdom. 1. By assuming and exercising a power of dispensing with and suspending of laws and the execution of laws, 'without consent of parliament. 2. By committing and prosecuting divers worthy prelates, for humbly petitioning to be excused 'from concurring to the said assumed power. '3. By issuing and causing to be executed a 'commission under the great seal for erecting 'a court called, The Court of Commissioners 'for Ecclesiastical Causes. 4. By levying money for and to the use of the crown, by pretence of prerogative, for other time, and in 'other manner, than the same was granted by 'parliament. 5. By raising and keeping a 'Standing Army within this kingdom in time 'of peace, without consent of parliament, and 'quartering soldiers, contrary to law. 6. By 'causing several good subjects, being Protestants, to be disarmed, at the same time when 'Papists were both armed and employed, contrary to law. 7. By violating the freedom of 'election of members to serve in parliament. '8. By prosecutions in the court of King's-'bench, for matters and causes cognizable 'only in parliament; and by divers other arbitrary and illegal courses. 9. And whereas of 'late years, partial, corrupt, and unqualified 'persons, have been returned and served on 'juries in trials, and particularly divers jurors 'in trials for High Treason, which were not 'freeholders. 10. And excessive bail hath 'been required of persons committed in criminal cases, to elude the benefit of the laws 'made for the liberty of the subjects. 11. And 'excessive fines have been imposed; and illegal and cruel punishments inflicted. 12. And 'several grants and promises made of fines and 'forfeitures, before any conviction or judgement against the persons, upon whom the 'same were to be levied. All which are utterly and directly contrary to the known laws 'and statutes, and freedom of this realm.'

"And whereas the said late king James the 2nd having abdicated the government, and the throne being thereby vacant, his highness the prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from Popery and arbitrary power) did (by the advice of the lords spiritual and temporal, and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal, being Protestants; and other letters to the several counties, cities, universities, boroughs, and cinque-ports, for the choosing of such persons to represent them, as were of right to be sent to parliament, to meet and sit at Westminster upon the 22nd day of January in this year 1688, in order to such an establishment, as that their religion, laws, and liberties might not again be in danger of being subverted: Upon which letters, elections having been accordingly made, And thereupon the said lords spiritual and temporal, and commons, pursuant to their

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respective letters and elections, being now assembled in a full and free representative of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid; do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their antient rights and liberties, declare;

'1. That the pretended power of suspending 'of laws, or the execution of laws, by regal 'authority, without consent of parliament, is 'illegal. 2. That the pretended power of dis-'pensing with laws, or the execution of laws, 'by regal authority, as it hath been assumed 'and exercised of late, is illegal. 3. That the 'Commission for erecting the late Court of 'Commissioners for Ecclesiastical Causes, and 'all other Commissions and courts of like 'nature, are illegal and pernicious. 4. That 'levying money for or to the use of the crown, by 'pretence of prerogative, without grant of par-'liament, for longer time, or in other manner 'than the same is or shall be granted, is illegal. '5. That it is the right of the subjects to peti-'tion the king, and all commitments and pro-'secutions for such petitioning are illegal. 6. 'That the raising or keeping a standing army 'within the kingdom in time of peace unless it 'be with consent of parliament, is against law. '7. That the subjects which are Protestants, 'may have arms for their defence suitable to 'their conditions, and as allowed by law. 8. 'That election of members of parliament ought 'to be free. 9. That the freedom of speech 'and debates or proceedings in parliament, 'ought not to be impeached or questioned in 'any court or place out of parliament. 10. 'That excessive bail ought not to be required, 'nor excessive fines imposed; nor cruel and 'unusual punishments inflicted. 11. That ju-'rors ought to be duly impanelled and returned; 'and jurors which pass upon men in trials for 'High Treason ought to be freeholders. 12. 'That all grants and promises of fines and for-'feitures of particular persons before convic-'tion, are illegal and void. 13. And that for 'redress of all grievances, and for the amend-'ing, strengthening, and preserving of the laws, 'parliaments ought to be held frequently.

"And they do claim, demand, and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings, or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example. To which demand of their rights they are particularly encouraged by the declaration of his highness the prince of Orange, as being the only means for obtaining a full redress and remedy therein. Having therefore an entire confidence, that his said highness the prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties;

2. The said lords spiritual and temporal, and commons assembled at Westminster, do resolve, That William and Mary prince and princess of Orange be, and be declared, king and queen of England, France, and Ireland, and the dominions thereunto belonging, to hold the crown and royal dignity of the said kingdoms and dominions to them the said prince and princess during their lives, and the life of the survivor of them; and that the sole and full exercise of the regal power be only in, and executed by the said prince of Orange, in the names of the said prince and princess, during their joint lives; and after their deceases, the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said princess, and for default of such issue to the princess Anne of Denmark, and the heirs of her body; and for default of such issue to the heirs of the body of the said prince of Orange. And the lords spiritual and temporal, and commons, do pray the said prince and princess to accept the same accordingly.

3. And that the oaths hereafter mentioned be taken by all persons of whom the Oaths of Allegiance and Supremacy might be required by law, instead of them; and that the said Oaths of Allegiance and Supremacy be abrogated.

'I, A. B. do sincerely promise and swear, 'that I will be faithful, and bear true allegiance, 'to their majesties king William and queen 'Mary: So help me God.'

'I, A. B. do swear, That I do from my 'heart, abhor, detest, and abjure, as impious 'and heretical, that damnable doctrine and 'position, "That princes excommunicated, 'or deprived by the pope, or any authority of 'the see of Rome, may be deposed or mur-'dered by their subjects, or any other what-'soever." And I do declare, That no foreign 'prince, person, prelate, state or potentate 'hath, or ought to have, any jurisdiction, 'power, superiority, pre-eminence, or autho-'rity, ecclesiastical or spiritual, within this 'realm: So help me God.'

4. Upon which their said majesties did accept the crown and royal dignity of the kingdoms of England, France, and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said lords and commons contained in the said Declaration.

5. And thereupon their majesties were pleased, that the said lords spiritual and temporal, and commons, being the two houses of parliament, should continue to sit, and with their majesties royal concurrence make effectual provision for the settlement of the religion, laws, and liberties of this kingdom, so that the same for the future might not be in danger again of being subverted; to which the said lords spiritual and temporal, and commons, did agree, and proceed to act accordingly.

6. Now, in pursuance of the premises, the said lords spiritual and temporal, and commons

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in parliament assembled, for the ratifying, confirming and establishing the said Declaration, and the articles, clauses, matters, and things therein contained, by the force of a law, made in due form by authority of parliament, do pray that it may be declared and enacted, that all and singular the rights and liberties asserted and claimed in the said Declaration, are the true, ancient, and indubitable rights and liberties of the people of this kingdom, and so shall be esteemed, allowed, adjudged, deemed, and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said Declaration; and all officers and ministers whatsoever shall serve their majesties and their successors according to the same in all times to come.

7. And the said lords spiritual and temporal, and commons, seriously considering how it hath pleased Almighty God, in his marvellous providence, and merciful goodness to this nation, to provide and preserve their said majesties royal persons most happily to reign over us upon the throne of their ancestors, for which they render unto him from the bottom of their hearts, their humblest thanks and praises, do truly, firmly, assuredly, and in the sincerity of their hearts, think, and do hereby recognize, acknowledge and declare, that king James the second having abdicated the government, and their majesties having accepted the crown and royal dignity as aforesaid, their said majesties did become, were, are, and of right ought to be, by the laws of this realm, our sovereign liege lord and lady, king and queen of England, France, and Ireland, and the dominions thereunto belonging, in and to whose princely persons the royal state, crown, and dignity of the said realms, with all honours, stiles, titles, regalities, prerogatives, powers, jurisdictions and authorities to the same belonging and appertaining, are most fully, rightfully, and entirely invested and incorporated, united and annexed.

8. And for preventing all questions and divisions in this realm, by reason of any pretended titles to the crown, and for preserving a certainty in the Succession thereof, in and upon which the unity, peace, tranquillity, and safety of this nation doth, under God, wholly consist and depend, the said lords spiritual and temporal, and commons, do beseech their majesties that it may be enacted, established and declared, that the crown and regal government of the said kingdoms and dominions, with all and singular the premises thereunto belonging and appertaining, shall be and continue to their said majesties, and the survivor of them, during their lives, and the life of the survivor of them: and that the entire, perfect, and full exercise of the regal power and government be only in, and executed by his majesty, in the names of both their majesties during their joint lives; and after their deceases the said crown and premises shall be and remain to the heirs of the body of her majesty; and for default of such issue, to her royal highness the princess Anne of Denmark, and the heirs of her body; and for default of such issue, to the heirs of the body of his said majesty: and thereunto the said lords spiritual and temporal, and commons, do, in the name of all the people aforesaid, most humbly and faithfully submit themselves, their heirs and posterities for ever; and do faithfully promise, that they will stand to, maintain, and defend their said majesties, and also the limitation and succession of the crown herein specified and contained, to the utmost of their powers, with their lives and estates, against all persons whatsoever, that shall attempt any thing to the contrary.

9. And whereas it hath been found by experience, that it is inconsistent with the safety and welfare of this Protestant kingdom, to be governed by a Popish prince, or by any king or queen marrying a Papist; the said lords spiritual and temporal, and commons, do further pray that it may be enacted, that all and every person and persons that is, are, or shall be reconciled to, or shall hold communion with, the see or church of Rome, or shall profess the Popish religion, or shall marry a Papist, shall be excluded, and be for ever incapable to inherit, possess, or enjoy the crown and government of this realm, and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use, or exercise any regal power, authority, or jurisdiction within the same; and in all and every such case or cases the people of these realms shall be, and are hereby absolved of their allegiance; and the said crown and government shall from time to time descend to, and be enjoyed by such person or persons, being Protestants, as should have inherited and enjoyed the same, in case the said person or persons so reconciled, holding communion, or professing, or marrying as aforesaid, were naturally dead.

10. And that every king and queen of this realm, who at any time hereafter shall come to and succeed in the imperial crown of this kingdom, shall on the first day of the meeting of the first parliament, next after his or her coming to the crown, sitting in his or her throne in the house of peers, in the presence of the lords and commons therein assembled, or at his or her coronation, before such person or persons who shall administer the coronation oath to him or her, at the time of his or her taking the said oath (which shall first happen) make, subscribe, and audibly repeat the Declaration mentioned in the statute made in the 30th year of the reign of king Charles 2, intituled, 'An act for the more effectual preserving the king's person and government, by disabling Papists from sitting in either house of parliament.' But if it shall happen, that such king or queen, upon his or her succession to the crown of this realm, shall be under the age of twelve years, then every such king or queen shall make, subscribe, and audibly repeat the said declaration at his or her coronation, or the first day of the meeting of the first

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parliament as aforesaid, which shall first happen after such king or queen shall have attained the said age of twelve years.

11. All which their majesties are contented and pleased shall be declared, enacted, and established by authority of this present parliament, and shall stand, remain, and be the law of this realm for ever; and the same are by their said majesties, by and with the advice and consent of the lords spiritual and temporal, and commons, in parliament assembled, and by the authority of the same, declared, enacted, and established accordingly.

12. And be it further declared and enacted by the authority aforesaid, that from and after this present session of parliament, no dispensation by *non obstante* of or to any statute, or any part thereof, shall be allowed, but that the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of parliament.

13. Provided that no charter, or grant, or pardon, granted before the 23rd day of October in the year of our Lord 1689, shall be any ways impeached or invalidated by this act, but that the same shall be and remain of the same force and effect in law, and no other, than as if this act had never been made."*

Dec. 16. The Speaker of the commons acquainted the house, That he had received a pacquet from commissary Shales wherein was inclosed a Letter from him, giving an Account of his proceedings, since he came into that employment; together with a Petition to this house; praying, that he may be released from his confinement, and permitted to come over into England, to clear himself from those matters which he is charged with. Which Letter and Petition were delivered in, and read at the table.—Resolved, "That an humble Address be presented to his majesty, that commissary Shales may be sent for over in custody, with all convenient speed; and that all his Papers may be brought over with him: and that his majesty be acquainted with the said Letter and Petition."

Debate on the Bill for continuing the Revenue for a Year.] Dec. 17. Mr. Hampden reports several Amendments to the Bill for continuing the collecting the public Revenue for a year.

Sir *Wm. Pulteney.* The matter before you is of great importance. I cannot agree, &c. to the Amendment of the Bill not to be determined by the ordinary rules of Westminster-Hall, but by the government. There is a known Hereditary Revenue, and settled by act of parliament. When king James abdicated the government, there was a cessure of the Revenue, and it abated; but when you filled the throne, such as had legal grants, they were not determined; I know not, whether they can receive the Revenue, but it is all the reason in the world that the crown should have a certain subsistence by revenue. I think, such a thing as the Revenue is not to be taken from the crown by implication. If the Chimney-Money must be gone by the Abdication, you needed not to have made an Act to take it away. If you continue the words 'and no longer,' I fear, they will not only affect the crown, but the subjects too, that have had Grants.

Sir *Wm. Williams.* To stop the mouths of people, we are providing laws against ill men, and for ill times, and therefore it was thought convenient to put in the words 'and no longer.' As to the new Revenue, the Customs and Excise, some part of the revenue follows the crown, as the shadow the body; but to say, therefore, all the revenue does so, is no consequence. Qualify that supposed Hereditary Revenue from the other, and I agree to it. Says Pulteney, 'This may shake Grants;' but if they be good grants by common-law, or statute-law, it shakes no more but what you would have shaken.

Mr. *Finch.* I rise up to acquaint you how I apprehended the Revenue to be in 1688. When you come to say, 'That the Revenue shall be collected for one year, and no longer,' you determine the Hereditary Revenue. I think we have declaration upon declaration, and that matter is pretty well at peace in you. If you put in the words 'for one year, and no longer,' you determine it. In the Chimney-Bill, if the Revenue had determined, you needed not that Act. If the Court of Wards was an hereditary revenue, then that granted in lieu of the Court of Wards, must be an hereditary revenue. Thompson says, 'No man will say, the Court of Wards was part of the king's revenue;' but it is the king's tenure, and

* "It was at this time suggested in all companies, that the present Settlement was illegal and unjustifiable: that king James would shortly return with a powerful army, and settle things on a right foundation: that the interest of the Church of England was involved with that of king James, and the one could not subsist without the restoration of the other. As these insinuations were countenanced by some of the clergy, bishop Burnet wrote a Pastoral Letter to those of his diocese, concerning the allegiance due to William and Mary, in which, among other topics, he uses that of the Right of Conquest, which had been always declined by the king, who chose to receive the crown by the determination of the people, as more agreeable to his Declaration. This Pastoral Letter (with another of Charles Blunt, more full to the same purpose) was burnt three years after, by order of the parliament then sitting. A little before the publication of the Bishop's Letter, a Libel was dispersed by the disaffected, called, 'A short history of the Convention, or new-christened Parliament,' against which a proclamation was issued, May 7, promising the reward of 100*l.* for the discovery of the author, printer or publisher." Tindal.

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he has the profit of the lands and wards. For taking away the Grants upon the Revenue, he is for taking away the Revenue wholly.

Sir *Tho. Lee.* I would willingly have the long robe inform us, whether those Grants for Ch. 2.'s and James's life, continue for the king's life? If each of them subsist, this Act is wholly unnecessary. As to what Finch says of the Chimney Money, why did the parliament, 3 Ch. 1. mention 'Quartering of soldiers,' in the Petition of Right? I would make use of this debate. If any of them be out, all are out. The Court of Wards, which was exchanged, was ancient in the crown, but I question whether the crown had a right to dispose of wardships before they fall.

Mr. *Finch.* In the Petition of Right, one part is declaring an old law, and another is making a new. The king grants a wardship *cum acciderit*, and that answers Lee.

Sir *George Treby.* To these words 'No longer.' The operation of these two words is to take away all the inheritance of the crown. To answer Lee's question, the king might release the tenures of inheritance of profit, that he had by the tenure, as he did wardships to the town of Yarmouth. If the king can grant this, he may grant what is in lieu of it. In the former bill, which is the pattern of this, there was some scruple made, whether they could safely collect it, (as if it was a new thing that kings have abdicated, and given up their crown before death.) All the nicety was upon collecting the Customs and Excise 'during king James's life.' Some were for the political life, others for the natural; this had some doubt for the sake of the officers, and therefore the Act was entitled, 'For the better collecting the Public Revenue.' It was said, and with great approbation, 'We have Judges for life, and salaries, &c. how could that be, if it was not supposed the Revenue was not hereditary?' You go on, and say, 'The king had not only delivered you from Popery and slavery, but you yielded to give the king thanks, for releasing the Chimney Money.' The appropriating some of the Revenue to pay Ch. 2.'s servants, and the Money to the States General, by it you suppose the subsisting of the Revenue, and you applied it to these uses. All prerogatives and advantages whatsoever follow the crown, and if they have the crown, they have all that belong to the crown. I think it strange, when a bill is brought in to satisfy a doubt, when, indeed, there was none; but to grant a Revenue, and charge it when you have done—will you determine the whole Revenue without hearing counsel for the king?

Sir *W. Williams.* Certainly some part of the Revenue is not alienable, and, no doubt, on the other side, the king may extinguish his Wardships, by a release; but, whether the king may alien his inheritance of Wardships, is another subject: I doubt it much.

Sir *John Trevor.* The exception is a good exception, and I must apply something to the one and to the other. I do agree, that 'No longer,' extends to all the revenue; that part hereditary and temporary too: I hope you will not apply the same words to both. Under favour, this is a new government: I will not deny my opinion: It was so in all broken times. In Edw. 2.'s time, &c. Edw. 3. took all the revenue, being in possession of the crown. Hen. 4. and Edw. 4. took it; and the Revenue continues when the crown is upon any man's head. The opinion has been in Westminster-hall, 'That the Revenue continues,' and the Customs were paid after the death of Charles 2. Unless you put the words 'no longer' in negative words, and let it go so.

Mr. Solicitor *Somers.* If Trevor's doctrine be true, we do grant this away for ever, by the words of the Act. In the Customs, the Grant lasts for life, and no longer, and no doubt of it. Now, for the Revenue granted for king James's life, whether it lasts longer than his reign? The Revenue of the crown of England is granted as in the king's politic capacity as to an incorporation. This will be of so terrible a consequence, that, I hope, you will leave out the words 'No longer.'

Sir *John Trevor.* I did not broach that doctrine. I use not to broach doctrines. I said, 'That it was the opinion in Westminster-hall, in king James's time;' and, 'that unless you put negative words in the Grant—it was subsisting.' If the words were necessary then, they are as necessary now. The Revenue was collected in king James's and after Charles 2.'s time.

Mr. *Garroway.* I think Trevor in the right. There was a Grant of the Customs of the Currants in Ch. 1.'s time; several were imprisoned for not paying the duties, though granted for years only. The expedient may be in the end of the Bill, viz. 'That this shall last for one year, and no longer,' and so leave it as you found it, and you'll do no hurt.—The Amendments were rejected.

Debate on the Clause in the Revenue Bill for saving Princess Anne's Patent, or Grant, &c.] Mr. *Boscawen.* I have as high an esteem for the prince and princess of Denmark, as any man; and I would be understood not to speak with reflection. For the first part of the Clause, the committee had no power to confirm the Patent. To confirm this, implies a diffidence in the king and queen. If the Hereditary Revenue be not fallen, it is still in being.

Mr. *Hampden.* Your instruction to the committee was nothing but 'To provide a Pension for princess Anne for a whole year;' and this Clause is not brought in according to that.

Sir *Henry Capel.* I hear there is a patent for this Pension, but to take notice of it here, is an extraordinary thing, and the improperest thing to be joined with this Bill; it is joining brass to clay, and not justifiable in the nature of it. There is an expression in the paper, which is an interdictive to the second clause of the Bill: What authority that honourable lord (Cornbury) has to bring it in, I know not; but I am sure he ought to have good warrants. If

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your hands are tied up to such a clause, where is the money to be received? In the Excise Office? I do not know more Exchequers than one. Have a care; by the course of the government of the Exchequer, any man may know what the receipts are, and see how money goes out; at the Excise Office they will not show their books. This may be a countenance to other Grants of king James, which, I hope, you will not allow. Upon the whole, I think it much better to lay this aside wholly. I would do that which should express respect and bounty, but this is not a proper time. In this great Revolution, this prince and princess were great instruments in delivering us from popery and slavery. 'Tis true, we are delivered from popery and slavery here, but there is another kingdom that lies under it: Now every body, the very farmer, retrenches in his family, and trade is grown low, but when it is a proper time, no man shall be more ready to increase the princess's revenue than myself; but I do say, there may be a time when the hearts of people will go more with such a thing, and, I believe, it will be more acceptable to this prince and princess. This is very surprizing: as to our constitution of the Exchequer, I would have it be more consonant to the government, that there may be no gift of money here but to the crown. Let the preamble mention all respect *imaginable*, that the arrears may be paid, and address the king for a Revenue for the prince and princess, for this year, such as the king shall judge necessary, this exigency of affairs of the kingdom considered; and hereafter it may be thought of; and, in the mean time, address to the king to this purpose.

Mr. *Foley*. I think here are two exceptions not to be answered. The first is, I think this Clause was not brought in according to order. This clause confirms the letters patent to the princess, and the heirs of her body, and that *is against* the order, the Bill being but temporary. Next, I hope, though the merits of this princess be great, yet that you will not break orders of parliament, when the letters patent were never read, which, by this Clause, you confirm, whether good, or no, and you know nothing that is contained in them.

Sir *Tho. Clarges*. There is little difference betwixt this grand committee and the house, only that in this the Speaker is not in the chair. Your order is, 'To provide for the prince and princess for one whole year,' and the patents are confirmed but for a year, and no more. I take it, this patent was possessed and legally invested in her. But 'that, without reading the patents, you cannot confirm them,' that is a mistake. In the parliament of Henry 8. and Edw. 6. where letters patent were granted from such and such a prince to such a time, it is impossible they should be all read. By the statute for confirmation of all cathedrals, and colleges, from Henry 3rd's time to Henry 8. they were all confirmed. It is said, 'That now it is not a seasonable time:' but is it not seasonable that the prince and princess, and the duke of Gloucester, should have meat, drink, and cloaths? This revenue is not very extraordinary, considering their quality. We are not to say here, 'That the king was not consulted in this.' I hope it will never be admitted, that we should take instructions from the king to pass bills here. There was 24,000*l.* a year charged on the post-office for the duke of York, in lieu of the charge upon the Excise, and the Exchequer never took fee of it. I think this is so just and so honourable to their merits, who forsook all their pomp, father and mother, for our laws and liberties, with their lives too, in this Revolution, that I would agree to the Clause.

Mr. *Hampden*. I think this very hard, to pay this 70,000*l.* this year: in the state you are in, it is a very great hardship to the king and kingdom. I shall deal as generously in the offices I am in, as any man that would be in office. I meddle not with this patent; I think it a good patent, but not regular to confirm it here. You charge this branch of the Revenue with this; will you say the king shall receive for his Civil List the other part? The queen then has not received this 70,000*l.* If it be looked into, you shall see what is done. You have granted 2*s.* per pound, &c. and the king has liberty, by that Act, to take up 300,000*l.* He has but betwixt this and Saturday next to take it up, and I guess very largely if there be 100,000*l.* and that is to pay Ireland, and Holland, and the Army here. How much will be left of your 2*s.* per pound? The Excise that goes out, suppose 14,000*l.* per week, that must go towards paying this. The Customs are 200,000*l.* per ann. less this year than formerly, and here is all to maintain what I have told you. This is a melancholy prospect. I move, to have the letters patent recited, and this Clause recommitted, and so much as they have by the patent to be received, and no more.

Mr. *Ettrick*. I know not that the methods of the Exchequer are more broken by this, than by privy seals; but the most weighty objection is, want of money. As for Capel's joining 'brass with clay,' I am sorry Capel's opinion is, that no part of it is hereditary; we should have gone a little farther, had it not been for the necessity, viz. the whole Revenue that was formerly the duke of York's.

Col. *Birch*. My affections at that time did, in a great measure, captivate my reason. Since that, we have had time to sleep, and my affections stand as high as ever they did. As to this Patent, the question is, Whether this debate, as the case stands, is seasonable? I cannot but admire at my own weakness when they all agree (and something gives them cause that I do not see.) I would do no prejudice to this Patent, but I would augment the princess's revenue; but can any body say, this is seasonable? Now our condition is low, will this turn to sense, to be so lavish to throw away 40,000*l.* per ann. when the king wants for his and our protection? Is this like to create a good understanding with the king? Give me leave to go a

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little farther: I would lay aside the whole Clause, and represent to the king the condition of the princess. The duchess of Cleveland had a pension on the Excise; I told her, 'It could not be, for it was contrary to law, and she must go to the Exchequer.' I never made up any Account from the Excise but to the Exchequer, neither can I. Our necessities are beyond expression. I cannot answer it, but to lay aside this Clause, and go to the king, &c.

Sir *Robert Cotton*. This debate is, as if 20 or 30,000*l*. would save, or lose, the kingdom. The duke of Schomberg was taken notice of in particular, and had 20,000*l*. paid him, for his great generosity in coming over. King James withdrew the princess's exhibition for some time, and now it would be hard to lessen it.

Mr. *Hampden*, jun. For want of union in royal families, ill men have made use of it, and have either ruined, or given a great shake to them. There was a good understanding betwixt Lewis 13, and his brother, the duke of Orleans, who had a great appanage: one abbot Rivier was about the duke of Orleans; what use made they of this? It proved the effusion of a great deal of blood in France. This king of France (a great politician) never gave his brother such a revenue, but a dependent revenue; and he has lived well and easily with him, but dependent upon him. I know no other way, but to compare the past with the present. We know how in England the contest was kept up between the houses of York and Lancaster. The princess has contributed very much to this Revolution; therefore I would put no difference in the royal family. There was a motion, 'That the queen might have 100,000*l*. per ann. distinct from the king;' but the queen was willing to be without it. This queen's revenue is anticipated, and yet she sits still without this. The duke of Schomberg had a considerable sum given him, and do you think that the king and the queen will not have more affection for their sister, than for duke Schomberg? I would lay aside the Clause.

Mr. Solicitor *Somers*. The proviso is of two parts; one to confirm letters patent, and the other for an additional Revenue for the princess. It is said, 'It was never the intention of the house that the letters patent should be declared good, and, therefore, not to be considered.' If they were not referred to the committee, no notice can be taken of them. I have heard of an attaint, and men never answered to it, condemned unheard, and so of patents: I have heard the patents read, and, I believe, if they had been settled in the name of another man, they would have been much more for their advantage and satisfaction. Therefore that is one reason why I would not read them. It has been said, 'We are not to ask the king's mind what to do here;' but if any man take upon him to say, 'It is the king's mind,' we ought to enquire whether it be true. We have Messages from the king on other occasions, and why not on this? In the case of the duke of York's Grant, &c. there was a contract brought into the house betwixt the king and the duke. No man can more honour the prince and princess, or is more highly sensible of her quitting her king, and father, than I, when I consider she had heard so much of divine right from the clergy. Granting a revenue, by act of parliament, to a subject, is always dangerous in this house. Though that of the king and the duke was a contract expressly recited, 'Such letters patent as the king should hereafter grant;' yet it gave power in the act, to the king, to make that settlement; and I hope, it will be always done with the same security to the king, and satisfaction to the people. Here is a necessity of providing for the royal family. The crown has always taken care of the several branches of it, by offices, &c. and nothing can make all the royal branches depend upon the royal family more. The king must retrench, and so large a proportion to one of the royal family! I hope the princess may have many dukes, a large and a numerous issue, and that a revenue may be provided for them; but for so large a revenue to be granted now, by the precedent of the duke of York, is of dangerous consequence, and was the beginning of our miseries that we afterwards felt.

Sir *Edw. Seymour*. I wonder now, and it is matter of surprize to me, not to agree with the committee. The objection is, the irregularity of the Proviso; I say it is regular, and, if it was otherwise, it is irregular. How can we provide for the princess, and leave the patent doubtful? It is objected, 'It was never known that a patent was confirmed, and never read;' it was offered to be read, and now made use of as if he had an act of parliament for it, and it tumbled down the stairs. If you will lay the act of parliament, in the excise, a good payment, without the exchequer, it is good, and they dare not deny the payment. Having gone thus far, I have one argument, that if those who have done and suffered so much for the Protestant Religion, shall not have marks of your favour, I hope they shall of your justice.

Mr. *Hampden*, jun. I think, Seymour has spent so much time in the West, [He had been long absent] and as Speaker of the house, that he has not had time to read history.

Sir *Edw. Seymour*. At least, I hope to make better use of what I have read than that gentleman.

Mr. *Finch*. If the duke of York, the heir presumptive of the crown, engaged in an interest against the kingdom, should have such a Grant; sure that has greater force when persons support your laws and liberties. Which way should this Proviso have been brought in? Will you include or exclude these patents? If you exclude the patent, you must mention the patent. It was said, 'If they are not good, you ought to make them good by law;' and I desire this law may do it. It is said to be 'of dangerous consequence to provide for the

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king's children;' if the parliament will not, and the king cannot, how shall they be provided for?

Mr. *Hawles.* When Charles 5, in his will, gave great portions to his children, cardinal Guimeni said, 'If you provide thus, your son may set up for himself.'

Mr. *Godolphin.* I am for agreeing to the Proviso. It is said, 'This is not agreeable to your order.' By rule, when you grant Money you are to go into a committee of the whole house; and that is an objection against the whole bill. The method proposed the last session was part of the Revenue for life, and part for years: I am sorry that was not then complied with, which will be looked on oddly abroad by your allies; will they be with you for your revenue for a year, and no longer? The greatest part of disturbance is usually for persons not at their ease: let the princess be at ease. I believe, the king will not give so great a sum as this, but at the recommendation of this house.

Mr. Attorney *Treby.* I would leave this to farther consideration, and recommit it. I find gentlemen, in the fashion, making confession of their faith. When the rights of monarchy are invaded, and the rights of the people, I think not fit for this company—If I call the princess's virtues apostolical, I am not amiss. She left her father, her beloved mother, and dear half-brother, for the Protestant religion. This may tend to lay a foundation of distrust between the king and the princess, and then that shakes what we must all be safe in. Under colour of a year's Revenue, by this you bring in a clause of perpetuity. I think the patent not invalidated by leaving out this clause.

Mr. Comptroller *Wharton.* 'What is orderly is not against the order of the house, but the orders of the court!' [said by lord Falkland] I was never ordered by the court, and never will be.

Lord *Falkland.* I did not say, 'Any body was ordered by the court,' but 'If as agreeable to the orders of the house, as to the orders of the court, you had not had this debate.' I meant the order of 'the Exchequer-Court:' (I never followed the orders of the court in king James's time) nor gave my consent to bring a person into that parliament, though I was promised I should be a peer of England.

Mr. *Godolphin.* It is slyly insinuated by Treby, as if I was one for taking away charters: but to condemn a person whom the parliament have voted innocent!

Mr. Attorney *Treby.* I was so far from having him in my thoughts, that I heard him not. As to lord Russel, if my lord was here, he would declare I had lord Russel's case; and I had lord Russel's case, and his counsel's consent for what I did.

Mr. *Garroway.* If it were possible, I would have no question. The king will hear what we do. I fear, a question may make divisions. Hereafter, the king will take care of the princess, and pray adjourn the debate.

The Bill was recommitted on the above Clause, 190 to 127.

Dec. 18. The house went into a grand committee, on the recommitment of the Bill for the Revenue.

Col. *Birch.* I conceive you have order to debate, or lay aside, the whole Clause relating to the princess. I think it is far better to debate the whole Clause; it will prevent loss of time and misunderstanding—There may be honour to the princess, and no benefit. Let gentlemen consider the scope of the debate yesterday, viz. 'That it may be with honour to the king, and a noble subsistence for the princess.' I would rather lay it aside, or make an humble Address to the king, that her Arrears may be paid, and a continuation of her Pension.

Sir *Christ. Musgrave.* I think Birch has misled you; to debate it paragraph by paragraph, is the usual method: two have relation to one another, the others are distinct, and have none. Debates move regular if they are kept to the strict proposition: for that which relates to other Patents, it does not strengthen them, but rather weakens them, this patent being directly named, and no more confirmed. In private bills, you admit of saving rights, and much more should in this.

Sir *Wm. L. Gower.* I move, that you will confirm the patent, in consideration of the Treaty between the two crowns of England and Denmark, for provision of younger children. Here is but 30,000*l.* per ann. on this consideration. The duke of Schomberg is general, and general of the ordnance, the best places in England: I grudge them not the duke; but shall we not confirm, now we have 10,000 Danes sent over to fight for us? I would know whether it was agreed, that this patent should be confirmed by act of parliament? I suppose, when the Articles of Marriage were made, they intended to rely upon the king and the patent; and, I think, it is as much reason now to do it, and they may have as good effect of it. It cannot be supposed but that the princess may have better effect of this patent, now she is of the same religion with her sister, than when she was of a different religion from her father. When you settle the king's Revenue, it will be the proper consideration, that she have subsistence for a year. I desire that it may run plain, free, and clear, that it may last no longer than that term; it is in proportion, what you intend for either king or queen. I move, 'That you will order the committee to draw up a Clause, or by Address to the king, that this Allowance to the princess may be free and clear, in such proportion, as large as it can go, for this year, the condition of the kingdom considered.'

Sir *Christ. Musgrave.* I am not for putting the patent in better condition than it was before, nor worse: if it be the same as it was before, I am not against it.

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Mr. *Garroway.* I am one of those that would have the patent no better, and no worse. I desire only a saving the patent, and I shall offer some words to it, viz. 'That the patent remain in as full force as it was before, notwithstanding this Act.'

Sir *Tho. Clarges.* Since the Treasury may be streightened by this Proviso, as it is apprehended, I do not believe this Revenue was in the crown in 1688; and, since it is said not to be in the Treaty, I hope they may provide for themselves by proviso, as in private acts. These are letters patent upon valuable considerations. I know, a clause in an act of parliament may take away the benefit of any great seal—These patents are said to be 'in perpetuity,' and, I think, this Clause offered is a reasonable clause. Though the king has taken great care of the princess, yet others have not; she has not yet had Michaelmas quarter; and now it is within ten days of Christmas.

Mr. *Sacheverell.* I am surprized at what I heard this morning. Here are words offered neither to confirm nor invalidate the patent. It is said by another, 'He would confirm the patent,' but that is more than you intend; therefore it is necessary to know the next Clause, what this is, that gentlemen talk of a saving. If there be a good title to these patents, I cannot agree to confirming them, and there is no need of that nor the other. Let us know whether we shall confirm, or not confirm them.

Sir *Henry Goodricke.* I am against the salvo of Marriage-consideration, but if to be left in the state you found it in, what is the meaning of the saving? There is something in the grass. There are certain persons put in trustees for this patent, that are under illegal capacities, not qualified by the Test. There is one that is abroad (lord Sunderland) especially; will you put them in a capacity of this trust? I am not willing they should be taken notice of. I discover more; if this contract of marriage be allowed by you, every prince that treats marriage with you, will have it, as at Paris, registered in the court of parliament. By this, you will put the crown upon hardships.

Mr. *Finch.* I perceive, it is every body's opinion to do no advantage nor disadvantage to the patents. All men are of opinion that this Clause will do no hurt. If any of these trustees are in an incapacity, the others being not, you confirm such only as are capable by law. If trustees are attainted, it voids their trust, but it invalidates not the rest.

Sir *Wm. Williams.* I am clearly for saving the right of the Patents and let them stand or fall upon their own bottom. There may be a jealousy, but, I suppose, the design is, that the collection of the Revenue shall not hinder the Patent from its vigour and strength. I would postpone this Clause.

Sir *Tho. Lee.* According to the true rules of Order, you are out of the way. I take it, when it is recommitted, it is as when first brought to the committee. After all of it is gone over, gentlemen may present a Clause.

Sir *Christ. Musgrave.* I think you have nothing committed to you but the Clause. I move, to have it postponed.

Sir *Tho. Lee.* I will only justify point of order. Why was it recommitted? It was, because it went farther than the house ordered.

Sir *Wm. Williams.* The Clause provides more for the princess, than the king; therefore I would lay it aside.

Sir *W. L. Gower.* I offer these words to the Clause, 'That whereas the prince and princess have been highly instrumental in this happy Revolution, the sum of **** be given them, &c.'

Sir *Tho. Lee.* I think an Address to the king as strong as any thing you have had proposed, but to enact this Clause is not leaving it to the king; he must do it, or part with the Bill. In the case of the duke of York, that was mentioned, the commons did not grant it to him, but desired the king to confirm such letters patent. Pray look over that grant, and make it so, as that the king makes the grant.

Mr. *Garroway.* I would have the Clause run in this Bill, 'That the king would order so much Money as we shall name in this house;' such a clause, I think, as obligatory as an enacting clause. Again, I would name a sum that the prince and princess may have so much for this year, that the king be enabled to appoint that sum you shall name, by quarterly payments.

Mr. Comptroller *Wharton.* I am sorry for the debates and heats yesterday; I feared an ill consequence, but, I hope, there will be none to-day. As for the motion I made, I had not been at the court of exchequer, nor the court at Kensington, for it, but I heard the king say, 'He would be content that the prince and princess should have an allowance for their subsistence:' and I move for an Address accordingly. I have no orders to propose it, but, as from myself, I move, 'That they may have the addition of 20,000*l.* per ann.'

Resolved, "That an humble Address be made to his majesty, that he will be pleased to make a Provision for the prince and princess Anne of Denmark, of 50,000*l.* in the whole, for the year, beginning at Christmas next." Which was agreed to by the house. *

* "The Tories, who found themselves outnumbered by the Whigs, and who had as yet no great reason to expect, that the king would, on any terms, consent to turn the scale in their favour, made their court on all occasions to the princess of Denmark, and her favourite the countess of Marlborough; and at this crisis, in particular, resolved to give the nation another public proof of their seeming attachment to her interests. They had, in the former session, been the first movers for settling a Revenue on her highness for life, independent of the crown, and had so far prevailed, in the general com-

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The King's Answer to the Address relating to Commissary Shales.] Dec. 20. Mr. Hampden informed the house, that in answer to their Address relating to the bringing over commissary Shales from Ireland, his majesty was pleased to acquaint them, That he had sent some orders of that kind; and had commanded him to attend lord Shrewsbury to be satisfied therein. Which he had done, and had seen the Letter sent to the duke of Schomberg: which imported, That the said Shales should be sent over in custody, if the duke did not find it necessary before he came, to make up his Accounts. And, that if his majesty had not given orders for his Papers, it should be done.

Address on the State of the Nation.] Dec. 21. Mr. Hampden reported, from the committee, the following Address:

"We your majesty's most dutiful subjects, the commons, in parliament assembled, having seriously taken into our consideration the State of the Nation, and being deeply sensible of the ill conduct of public Affairs, and the unhappy success of them, as well in reference to Ireland, as to your majesty's Armies and Fleet, do think ourselves obliged, in duty to your majesty, and in discharge of the trust reposed in us by those we represent, most humbly to lay before your majesty the (inexpressible) wrong that hath been done to your majesty, and your people, and the present imminent danger of this kingdom, and of all your majesty's Protestant subjects, from the want of ability or integrity in those who have had the direction of the said affairs, and by whose advice not only the

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mittee, that 40,000*l.* was named and agreed to for that use: but it was postponed on the report, and in the end, defeated by the adjournment of the session. The same intrigue was now resumed: the princess's Friends, namely the lord and lady Marlborough, could not bear to think, that she should depend on the king's generosity, which, it seems, they had no opinion of, and therefore made a general muster of all who were willing to be adventurers in her service. No affair of this nature can long be a secret: the court had soon intimation of it, were alarmed, and endeavoured to stifle the bomb, before it should have time to burst. Lady Marlborough was attacked on all sides, and in all manners; threatened with ruin; wheedled with promises of favour; and, at last, told, that, instead of serving, she would undo, the princess: that she (the princess) could not hope to carry her point; and, if she did not, the king would not think himself obliged to do any thing for her, &c. Her ladyship, however, continued immoveable, and, instead of giving over her pursuits, doubled and redoubled all her efforts to render it successful. Finding her thus firm, a new expedient was put in practice: the duke of Shrewsbury was sent to make her highness an offer of 50,000*l.* a year, if she would desist from soliciting the settlement by parliament, and undertook of himself to be a sort of guarantee for his majesty's performance, by saying, 'That he was confident he would keep his word; and that, if he did not, he would not serve him an hour after he broke it.' This message, also, was brought to lady Marlborough, and as she had declared herself dissatisfied with it, and even insinuated, that his majesty's promise was not to be depended on, it may be fairly presumed, that when she reported it to the princess, she prevailed with her to return the following answer: 'That she could not think herself in the wrong to desire a security for what was to support her; and that the business was now gone so far, that she thought it reasonable to see what her Friends could do for her.' This was peremptory; and all that the king and his ministers had now to do was, to manage the matter as well as possible in the house of commons: now it is reasonable to think, that, before this message was sent, both

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were convinced, that the princess had already made sure of a formidable party there; for sovereigns never stoop to such expedients, till all others have been found unsuccessful: instead therefore of making the princess popular, by rendering her the object of public pity, as the opposing her whole demand would scarce have failed of doing, they compounded the matter with her partisans: the latter demanded 70,000*l.* a year, and the former offered 50,000*l.*; 'which was at last accepted, rather than have any farther struggle, (says the duchess of Marlborough) considering the great power and influence of the crown, by reason of its dependants.' But though this compromise was the effect of private cabals, it seemed, without-doors, to be the effect of fair and open deliberations: lord Eland, (the only son of the marquis of Halifax) Mr. Finch, and Mr. Godolphin, stickled in the house for 70,000*l.* and others, among whom was the younger Hampden, insisted, That it was dangerous to settle any Revenue on a princess who had so near a claim to the crown, independently of the king, whose very title was disputed by the malcontents: upon the result of all, it was resolved, 'That an humble Address be presented to his majesty, that he would be pleased to make a provision for the prince and princess of Denmark of 50,000*l.* in the whole, in the year, beginning at Christmas next.' And such an Address was accordingly presented by the whole house; to which his majesty was pleased to answer, 'Gentlemen, whatsoever comes from the house of commons is so agreeable to me, and particularly this Address, that I shall do what you desire of me.' It is however acknowledged on all hands, that the consequence of this struggle, was a breach between the two royal sisters, which never was made up: and it is observable, that the queen's particular complaint, mentioned by Burnet, namely, That such a motion should be made before the princess had tried, in a private way, what the king intended to assign her, has never been answered." Ralph.

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reducing of Ireland has been obstructed, but the treasure of this kingdom wasted, and the lives of many brave soldiers, and able seamen, lost, without any such suitable effect as might reasonably have been expected.—We cannot but reflect, with the utmost grief, upon the neglect of relieving Ireland, during the first months of your majesty's administration, when your majesty's ministers did not use such effectual means as were apparently necessary to have prevented a war in the said kingdom: and, when the earl of Tyrconnel had levied forces to oppress and destroy your majesty's Protestant subjects, neither men, money, nor arms, were, for a long time, sent to enable them to defend themselves and their country; insomuch, that, without mentioning other particulars, several thousands of them perished miserably in the town of Londonderry, for want of timely succour. And when, after many neglects and delays, an army was appointed for Ireland, necessary provisions were wanting, and matters so ordered, that the endeavours of your parliament, and the Supplies granted for that service, proved ineffectual; at the same time that many such experienced officers, as were known to be enemies to your majesty and your government, were suffered to go beyond the seas, where they entered into the late king James's service, and have, since that time, been his chief instruments for carrying on the War in Ireland.—The Miscarriages in reference to the Fleet, have been as destructive to your majesty's and your people's interest, as those in the army; many of your majesty's subjects having been ruined, and others greatly damaged in their estates, by the want of station-ships and convoys; and some sea-officers, whose duty it was to have convoyed the ships of English subjects, exacted money, from merchants, and unnecessarily pressed their men; [p. 439.] by which means, trade was discouraged, your majesty's Customs diminished, and many of your loyal subjects impoverished: your majesty's Fleet was also served with unwholesome and corrupted Provisions, [p. 447.] which caused the death of many of your best seamen, and has deterred many others from the service.—It will be too tedious to multiply instances of Miscarriage and ill conduct in your majesty's affairs, through the ill advice of those who have undertaken the management of them, to which the success in all points, has been answerable.—Our remedy, under God, consists in your majesty's wisdom, and affection to your people; which, we doubt not, will incline your majesty to hearken to the advice of us, your dutiful commons, who do most humbly beseech your majesty to take the above-said matters into your consideration; and, in your great wisdom, to examine into, and find out, the authors of Miscarriages, and to appoint affairs to be managed by persons unsuspected, and more to the safety of your majesty, and the satisfaction of your subjects."

Debate thereon] Mr. *Howe*. I find we are in many streights, and this Address is to remove suspected persons. I have not seen much success from addresses this session, especially when we addressed to know who recommended Shales, and the king 'cannot possibly give you an Answer.' This must be answered with another question; Who they are you suspect? Partly on one side, and partly on another, and a moderate party suspects them both. If you would remove all the fat and the lean, all fair and brown, then I shall know who you mean. All that were for king James, and all that are for himself, that those should be forced out and removed—Pray let the Address lie upon the table till it falls under the table: it is the best use you can make of it.

Serjeant *Maynard*. The prince of Orange's coming in was a miracle, and that those that helped him in were not destroyed. The Address about Shales came to nothing, and, as for the Money you have given, I know not what is become of it. When Henry 4 came in, upon Rd. 2's abdication, a parliament was in being, but the writ fell upon it; but that parliament sat, and laws were executed that they made, and are laws to this day. The commons addressed, 'That his Confesssor might be removed quite from him;' the lords joined with them. The king answered, 'He knew no fault by him, but since the commons did suspect him, no man should abide in his house to the displeasure of his commons.' There were two Popes at one time, and Europe was divided upon it; the commons made a request to the king to acknowledge the Anti-Pope. Now I have told you this, make what use of it you please.

Sir *Tho. Lee*. About a week since, you ordered this Address, and the house was extraordinarily unanimous in so great a thing; but it seems to me now that there are more doubts in it than did arise at first. All this will require some consideration who you shall fasten upon; else, you will alarm the nation at the same time. If you change your minds in this Address, it will look like coldness; if the business of the day be retarded: you will hinder that great affair. I move, "That you will adjourn this till after Christmas."

Mr. *Hawles*. Some charters were granted by the late king. Some were very ill trustees in the management of the Revenue; if you continue them still, you ought to see first who the persons are. We have had no effects, this parliament, of our Addresses but one, and that was against Ludlow. Many preferments have been to bishoprics; Mr. Johnson has not been preferred. If you go on, on a general Address, I doubt you will have the same success. It was said by an old gentleman, 'It was one of the best acts one of the present ministers ever did, to endeavour a reconciliation between king James and the prince of Orange;' I think, those that did it ought to have no preferment; and you have some in Westminster-Hall, where honest men ought to be. I would not have ill men either in West-

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minster-Hall, or Whitehall. Do you think fit that Mr. Blaithwaite should be in office to govern all the Army? If there had been a reconciliation betwixt king James and the prince of Orange, what would have become of the people? They had been in worse condition than before, and the end of that would have been a common-wealth. The very papers in col. Sidney's closet, tending to that, judged him guilty of Treason. The people will find a head, or make a head. I am sure it is very natural, that those gentlemen so employed did what they could to obstruct the Bill of Exclusion; not a man of them can draw ten men after them. When the prince of Orange came in, by the good will of the people, they were for a regency, and that is a common-wealth. I am for removing those, for, I am sure, they are for a common-wealth.

Mr. *Foley.* The Address, by your vote, is to be considered to-day, and last night the votes went all over the nation, and shall we now put this off? I see no reason for it; the sooner it is done, the people will be better satisfied. Pray go on with it.

Mr. *Hampden*, jun. Though it has been moved to put this Address under the table, I know not the reason of it: it is incomprehensible to me: I would know the meaning of it.

Sir *Rd. Temple.* I fear, that, by this Address, you will make reflections on the government; you cannot cure it, now you have read it. Go to the order of the day, and read it when the house is full.

Sir *Wm. Lev. Gower.* If this be pursuant to your order, we reflect on ourselves not to proceed: read the Address, paragraph by paragraph: But let not such a reflection lie upon us, to let such a thing lie still: and now to go upon another thing.

Resolved, That the Address be read a second time, paragraph by paragraph. The first paragraph was read.

Sir *John Guise.* Now we are going to press hard upon all the counties of England, they should be satisfied that you put their Money into hands unsuspected. If the Address be not full enough to your opinion, recommit it.

Serjeant *Wogan.* I cannot call this an Address; it is a libel, in some part of it: pray recommit it.

Sir *Robert Rich.* I think, the gentleman calls it 'a Libel.' The commons now sit 'on the State of the Nation,' and a member calls it 'a Libel!' I move, that the standing orders of the house, in such cases, may be read.

Sir *Wm. Williams.* I am sure, freedom of debate is the life of this house. I must agree, that, if an act, or vote, of the house be called 'a libel,' it is a great offence: but when things are *in fieri*, (a doing) gentlemen may use sharp arguments in that case.

Serjeant Wogan proffering to speak,

Col. *Birch.* Pray keep to order. If the words be agreed by the house, then you hear him, but not till then.

Mr. *Smith.* I will not justify the words, but I would not be too severe upon the gentleman. I remember several expressions this session: I desire the gentleman may explain himself.

Sir *John Guise.* If Wogan cannot find wherein the order of the house is transgressed by the committee that drew the Address, it is a reflection upon the whole house. When within doors this is called 'a libel,' what will it be called without doors? I think there is so much weight in the Address, that it is, whether you will continue king William, or call in king James. I would not have it slight or light, but it cannot be valued without doors. I would have Wogan ask the pardon of the house in his place.

Serjeant *Wogan.* I humbly ask pardon of the house if I gave offence.—And so this went off.

Mr. *Foley.* I wonder gentlemen are for recommitting this Address, and yet find no fault with it. What has your committee to do to draw an Address without your instructions?

Sir *Wm. Williams.* The exception to it is, 'That it is not home enough:' I take it, it agrees with every particular of the debate. I took it for the sense of the house, that the committee should name no persons. If your committee had prepared you such an Address, it had been justly exceptionable.

Mr. *Howe.* I told you before, 'That the king would make no Answer to your former Address.' I suspect a sort of men about the king and queen that are not fit to be employed, who were for taking away the Test, and the Penal Laws, and for the Dispensing Power, and taking away Charters. They cannot be suspected to be for king William, for they have acted is if for king James. If these men are fit to be entrusted, say so; but if the king please to enquire, and turn them out, that is fit to be instructions to the committee.

Mr. *Hawles.* I reflect upon nobody in the house; but, if it be your opinion not to continue those about the king, that had a hand in murders, say so. If they have given money for their places, let them be rejected.

In the first Paragraph, the word 'inexpressible' was rejected. On the next, 'Direction of Affairs, &c.'

Mr. *Hampden.* jun. Lowther said, 'There was good counsel, but ill administration.' Was the king counselled to send men and provisions into Ireland timely? If so, then there was some counter-counsel.

Sir *Rd. Temple.* To what purpose should you put the king to examine it, when you have determined it already? To lay such a charge is not a necessary direction to the committee. Possibly, great miscarriages have been, but such as could not be avoided. Here you assert 'Want of integrity and ability;' you settle the matter of fact, without making any enquiry.

Mr. *Foley.* When the prince of Orange came to the administration of the government, there was great store of ammunition and pro-

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vision that came from Holland; and ships at Plymouth were ready, but nothing must be done; so they suffered the poor people there to be lost, and, notwithstanding, all the Addresses, you had a Report that the provisions were bad, and, therefore, fit to be sold. I think the king has those about him that betray both king and people, and shall nobody be to blame? Lay the miscarriages before the king, and he can tell who were forward, and who were backward, in his service: and I think the Committee has done well.

Resolved, That the Address be recommitted, upon the debate of the house, to the same Committee *.

Dec. 23. Resolved, That the house be called over to morrow fortnight: and that all such members as shall not appear, without a reasonable excuse, to the satisfaction of the house, shall have their names printed, to the end the nation may know, who do attend, and who do neglect their duty.

Dec. 30. The Speaker reported, That he had attended his majesty with the Address relating to the prince and princess Anne of Denmark; and that his majesty was pleased to return this Answer: "Gentlemen, Whatever comes from the house of commons is so agreeable to me, and particularly this Address, that I shall do what you desire of me." †

Jan. 3, 1689-90. Resolved, That the farther sum of one shilling in the pound, for one year, be laid on all persons and estates, charged by the two shilling-Act.

Jan. 7. Upon a Call of the house, sir Jonathan Jennings being absent, and information being given, That he was lately made high-sheriff of Yorkshire, a debate arose, and it was Resolved, nem. con. That the nominating any member of this house, to the king, to be High-Sheriff, is a breach of the privileges of this house; and that an Address be made to his majesty, that he will be pleased to constitute another Sheriff for Yorkshire, in the room of sir J. Jennings.

Jan. 9. Mr. Cholmondeley, a member, was ordered to be committed to the Tower, for a contempt, in refusing to take the Oaths.

Debate on the Corporation Bill.] Jan. 10. An ingrossed Bill for restoring of Corporations was read the third time.

Mr. *Sacheverell.* That this Bill is very necessary, no man but thinks. Surrenders of Charters are crimes notorious, but all are not equally guilty of it. I tendered one Clause the other day, 'That those that did it wilfully, maliciously, or for their own lucre, ought to have a mark set upon them,' but not to extend to all persons alike. When I drew the clause, I considered the times and circumstances they were done in; those that did it either to serve ends of their own, or those of the wicked times; I looked little farther, seeing London did defer their cause as far as they could: some men, through fear, surrendered what they could not withstand; therefore, to be liable to that small punishment, the house put out the word 'majority,' and made it general. I thought it too large; I have considered it since, that going so large is too far. My opinion is, to look back only on them who came voluntarily, without consent of the majority, and ought to have marks; and, after the City-Charter was taken away, it might induce the majority to surrender. I could be content to excuse those from this disability. I cannot suppose they did it maliciously: therefore, as a friend to the Bill, I proffer a Clause, "For incapacitating, for seven years, all such as had any ways acted in the surrender of Charters of Corporations, from bearing any office in the said corporations." *

* "Mr. Hampden's Address was thought by some too long, by others too short; Mr. Hampden the father spoke against it, as entering too far into the detail of Miscarriages and Misfortunes, which too many of that assembly did not care to hear enumerated, not in hopes of having, but for fear things should, be amended." Oldmixon.

† "In December a question was put in the house of commons, 'Whether a person having a place at court, or any dependance on the king, should be a member of that house?' The debate was warm and obstinate; for, as it always happens on such occasions, the disgusted and disappointed joined with the enemies of the government, to keep others out of places, since they themselves could not get into them. The question was however carried for the place-men, and this reason given, 'because otherwise the fittest persons for public employments would remain excluded, and be debarred the opportunity of serving either the king or the country." Tindal.

* "In this situation of affairs, the Whigs discovered that the Tories were treating with the court about the dissolution of the parliament. Though the commons had granted the supplies that were demanded for the reduction of Ireland, and for the quota to which the king was obliged by his alliances, yet the remoteness of the funds making it necessary to offer great premiums to those who advanced the money upon a security that was thought so hazardous, since few believed the government would last so long, the Supplies, though seemingly great, brought not in the half of what they were estimated at. This the Tories perceived, and seeing the Whigs grow sullen, and that they would make no advance of money, they applied to the court, and promised great advances of money if the parliament might be dissolved, and a new one summoned. Upon this the commons prepared a bill, "for restoring Corporations to their antient rights and privileges," by which they hoped to have made sure of all future parliaments; for in it was inserted the following Clause, "That every mayor, recorder, sheriff, common council-man, town-clerk, magistrate, or officer, who did take upon him to consent to, or join in the surrender of any

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Sir *Tho. Clarges.* I am against this Clause. This bill comes with a good prospect; in a great measure, it is a good bill; but this clause is destructive to the peace and quiet of the kingdom; instead of reconciliation, it lays the foundation of perpetual division. I think it will become the wisdom of this house to make this a Bill of peace and quietness. In Hackwell's Book, I find, 'Where proviso and clauses are contrary to the matter of a Bill, and altered, as in a Bill of Clothing, the house disliked a clause, and threw it out.' Upon these grounds and considerations, considering the fatality of it, if some expedients prevent it not, I desire the clause may not be read, but rejected.

Sir *Walter Yonge.* I am for the clause, for the reason Clarges gave, 'For the peace of the kingdom.' Where a clause is so fair as this, nobody can be against it, but such as approve of all the villainies of the surrenderers. Those who would have brought in popery and slavery if they had power, would do the same thing again. They abhorred parliaments, and petitions for their sitting, that only humble remedy. When such a clause is offered, that Corporations be put into the hands of good and moderate men, I would not have it rejected.

Mr. *Hampden.* If we get into this way, we shall not have done till to-morrow. One moves, That the Clause shall not be read, and gets into the merits of the Bill: the proper question is, 'Whether this clause shall be read?'

Mr. *Roberts.* As this bill is now, it is a most pernicious bill. It came a good bill from the committee, but the additional Clause has spoiled it. It was brought in in a thin house, and, I hope, you will reject it in a full house.

Sir *Christ. Musgrave.* Pray keep us to the question, Whether you will read the Clause? When in debate, gentlemen ought to conform themselves to modest expressions, and not to be told of 'justifying all the villainies that have been done.' I think, with submission, you ought, Mr. Speaker, to correct such expressions. I think this Proviso not capable of amendment. In opening the clause, Sacheverell told you, 'It must be proved that the majority made the surrender,' and yet there is a difficulty; for, he knows, whole books have been stolen away by the town-clerk; and a man runs the risque of proving himself qualified, without any record to show.

Lord *Falkland.* I think Sacheverell's Clause irregularly brought in, and, indeed, the whole Bill, when you had passed the body of the bill; and this clause is a contradiction to the whole bill. This clause takes away the rights of those you would save. The clause takes away the rights that were restored by the prince of Orange's circulary Letters. It is dangerous, now the king is going out of the kingdom,* to discontent such a body of people. I am more afraid of the consequence of this, now people are generally dissatisfied. This bill is a restoring of Corporations, and not a bill of pains and penalties. This clause is improper for this bill, and for the present circumstances of affairs, and I would have it rejected.

Sir *Wm. Pulteney.* I attended this bill the last session, and this, which, I must say, he brought in irregularly to take away free-holds, and disfranchise men, and this without leave of the house; a very extraordinary proceeding! As to the form, very angry and very naught! It is too general. You may punish thousands; dangerous at this time. The bill says, 'They shall be restored, &c.' and the Proviso says, 'They shall not be restored;' a contradictory clause! Whole shoals of men will be put out by this, many terrified, and no reason to punish this sort of men. Suppose an armed force come to my house, and say, 'Give us quarters, or else we will plunder and burn your house:' the terror upon these men justifies the thing. Twelve red coats in Westminster-Hall are as great a terror as an armed force. I am not

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charters, or instrument purporting such surrender, did solicit, procure, prosecute, or did pay or contribute to the charge of prosecuting any *Scire Facias, Quo Warranto,* or information in the nature of *Quo Warranto,* by this act declared unlawful, shall be and is declared, adjudged, and enacted to be, for the space of seven years, incapable and disabled to all intents and purposes, to bear or execute any office, employment, or place of trust, as a member of such respective body corporate, or in or for such respective city, town, borough, or cinque-port, whereof or wherein he was member at or before the time of making such surrender, or instrument purporting such surrender, or the suing out, or prosecuting such *Scire Facias, Quo Warranto,* or information in the nature of *Quo Warranto;* any thing in this act contained, or any other case, statute, or any ordinance, charter, custom, or any thing to the contrary, in any wise notwithstanding." This was opposed in the house by the whole strength of the Tory party; for they saw, that the carrying of it would be the total ruin of their interest through the whole kingdom. They said a great deal against the declaratory part of the Bill; but whatever there might be in that, they urged, that since the thing had been so universal, it seemed hard to punish it with such severity: and that by this means the party for the Church would be disgraced, and the corporations cast into the hands of dissenters. And now both parties made their court to the king. The Whigs promised every thing, that he desired, if he would help them to get this Bill passed; and the Tories were not wanting in their promises, if the bill should be stopped, and the parliament dissolved. The bill was carried in the house of commons by a great majority." Tindal.

* His majesty had declared his intention of going in person to carry on the war in Ireland.

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fond of falling upon Addressers and Abhorrers. This is not the way to make friends for the king nor the government. You have several precedents (though one cannot speak against the body of the bill) yet if a clause be not according to the intention of the bill, it may be thrown out; and I would reject this.

Mr. *Hampden.* I have heard of one parliament that has arraigned another, but never heard of one parliament that has complained of itself to its own face. Your bill says, 'All such and such shall be restored, except such and such;' and it is no contradiction certainly. Do you intend to restore all those to act the same thing again? You are told, 'It may be taken care of in the bill of pains and penalties;' but will you restore them to Corporations that have betrayed them, and let them do it again? The proviso cannot be rejected. Now you are told of precedents; if they are examined, they are not to this point. I do not remember a whole clause cut off in a whole Bill. What you have to mend in an ingrossed bill must be mended at the table. It is a strange sort of mending a garment to cut off a sleeve. It is said, 'This may be reserved for the bill of pains and penalties,' and there will be none. Pray pass the bill.

Serjeant *Maynard.* I have heard that to-day which makes my ears to tingle. The case is, here is a bill brought in to restore Corporations, and it is moved, to cast out this proviso. It has been committed, and ordered to be ingrossed, and a gentleman comes and prays that it may be thrown out; certainly he is but a young parliament-man. To move to cast out the whole clause, you put it on an everlasting debate; if there be no penalties, you had better like what king Charles and king James did. If those Surrenders stand, they may make what parliament they will at court; and, formerly, he that should have named such a thing, should not have come to the bar, but gone to the Tower. Why may they not as well move to cast out another and another clause, till they have left none in the bill?

Sir *Henry Goodrick.* You are told of 'making ears tingle,' and of 'the court making a parliament;' and by another, 'to justify all the villainies, &c.' It is a bill not good in itself to let in all mankind into Corporations; fanatics, &c. If all these must be left out of Corporations, whom avarice, force, and easiness have induced to surrender their Charters, if all these must be left out, whom will you leave to act; whom will you leave to chuse parliament-men? None. Harmony must save us; when this is a bill of heat, a bill of attainder, where will this end? No man knows. Till you let us debate freely in this house, I desire to withdraw from my attendance. I would have Yonge explain, or be called to the bar.

Mr. *Garroway.* It is moved, 'That Yonge should explain.' If the gentleman would have made exceptions, he should have done it immediately. The house has been divided since, and it is against all order.

Sir *Tho. Clarges.* Yonge is a young gentleman, and, I believe, what he reflected on me was passion; and I would desire you to pass it by. I have been told by Hampden, 'That I talked like a young parliament-man;' I could wish he could make his words good. I wonder at this from a gentleman conversant in records, for Hampden to say, 'It has not been done in his time,' when it has been done. In great emergencies it may be done. We sat from nine till four in the morning about Skinner's Case, and I remember what Mr. Vaughan said, 'That precedents cited without records were so many nothings.' I have not yet spoken to this Clause. What I said was only as to precedents. I know a corporation of 600*l.* per ann. advised by this lord chief justice to surrender, or else, if judged against them, the lands would go to the next heir of the granter, &c. Hundreds of innocent persons would have been involved. In the third session of the first parliament of king James 1, p. 64, &c. you will find the precedent I spoke of. I will make this use of it; if it appears that a whole proviso is taken out of a bill, it may be done again.

Sir *Wm. Williams.* The motion made is for rejecting the whole clause. It is one thing to reject, and another to correct a clause, to be mended by the clerk at the table. But if the whole clause ought to be recommitted, you consider whether any thing be good in it before you wholly reject it. This clause is an exception of some before 1685, and not to be restored. Do you restore them to their franchises? What are these franchises? Will you restore these men, who have been the worst of men, and betrayed their trust, into the plight of an innocent man, and restore them to their places again? Is there not a middle way? I agree to the wilful and malicious man—Will you put it again into the power of the greater? I would make them the lesser men, and take off the greater. By this day's work the world will see we are a divided people. This proviso sets only a mark upon such men. In some Corporations, of 600, who had a right to give consent to a surrender, not above 34 were for it; and they prevailed: and how came this about? This was a packed Common-Council by lord Jeffreys. There are 500 still in being at Chester against the surrender, but because a few in corporations are concerned, must you let the whole be lost for the sake of a few? Can we forget the law for regulating corporations? Can any thing be said for this, that cannot for that? Because dissenters, in the first regulation, were put out, and the church of England came in, can any man argue for that act of parliament that does not argue for this proviso? That act did good in Charles 1's time, and this may do good in king William's to put out those that would go back again. I would recommit the proviso.

The Clerk read some precedents of 1607.

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'Ordered, That a clause be erased out of the 'ingrossed Bill for Cloathing. In the Bill for 'repealing the clause of the statute about 'Ferry-men, and Water-men, it was agreed, by 'the counsel on both sides, to be struck out; 'which was presently done at the table.'

Mr. *Howe.* I am almost afraid to speak; it is almost as hard to say what is talked, as to be of every man's opinion in this house. I hope all here speak their opinions candidly. I did hear a reflection that I wondered at, and that I would not have made, (Goodrick on Maynard.) I would have the church of England settled, without their passive obedience. I would never willingly part with any thing established by law in that church. But these men have delivered up their charters, depriving of their right children unborn. The question is, Whether you will let them in to all they have pretence to, or take away all we have pretence to. Corporations did chuse such as were for court purposes; I would secure it on that side, though I hope it will never be attempted there. Those who are sure to be subject to those passions, I would not trust to chuse parliament-men. How safe can we be, when such men are the originals of our misery? It was that party that the prince of Orange's Declaration principally made at. The point is not, Whether it is fit to do it, but whether now. I am sorry the expedients are refused, but if you put it to the question, 'Whether this Clause, or this Bill pass,' I cannot let so useful a clause be lost. I think this is no punishment; it takes off a great trouble from these men, and frees honest men from fears. The properest thing you can do, is to put them out of power. You may moderate this clause by punishing the principals.

Mr. Solicitor *Somers.* As for the precedents produced, they are not to this case; the case of the Ferries relating to a particular person where counsel was heard, and both parties agreed to leave the clause out. This proviso was offered in the house, received amendments, and the question was put, and it was voted part of the bill. If the question be, 'Whether this proviso shall be part of the question,' it is undoing what you have done, and I dare boldly say, there never was a precedent of such a thing. The house are obliged to answer the objection (and not I) to the irregularity, for they admitted it. To destroy corporations, and to make parliaments at the pleasure of the crown, this is the thing, and these persons are complained of for it. This is the worst means to arrive at the worst ends imaginable; they have broken their oaths and trust to subvert the government. Is there any thing more just and natural than that these offenders should be laid aside? And to put these men out of condition to play the same trick again! All you restore were the old members of the Church of England, but not that córrupt part of the Church of England who endeavoured to destroy the government. Honest men are now electors, to supply the place of those ill men. If they have a mind to betray you, they cannot, they must be qualified by the Test-Act. Are not these the ways you distinguish them from the Church of England? None others can come in. I am sorry it should be said, 'Nobody is fit to be trusted but such as are branded with this reproach.' And they will be as just to the government as they will be to the Church, true Church of England-men. All those men that were in the first part of this matter, were either for private ends, or worse ends: though I hope it was not for that end that this Clause was refused. I doubt not but Corporations will be supplied by Church of England-men; they can have no others. It is said, 'This is a bill of pains and penalties?' but you are not doing that; you are only laying them aside that, you have had experience, would have betrayed the government. There is no possible inconvenience in this proviso; you will have better men and unspotted men in their stead; therefore I would not reject the clause.

Mr. *Foley.* The question is, Whether this clause shall be rejected, or not?' It was endeavoured, the two last reigns, to pack a parliament to subvert all our constitutions. There was a design for a clause in a bill, 'That all Corporations should surrender their Charters by such a time, or else they should [be void, and justices of the county should act in all towns, &c.' Had that design succeeded, there had been no need of *Quo Warrantos.* Your Books will tell you, it was not in the power of that house to make such an alteration. It was part of this king's Declaration to restore all corporations to the condition they were in before the *Quo Warrantos* and surrenders. We have ill ministers, and they are concerned that the same thing may be done again. Men have done all they can to annihilate their corporations, and we must not annihilate, but restore these men. If there be any in corporations who are sorry for what they have done, they will take this for a very merciful proviso, that they may do no more mischief to corporations and to the king; therefore retain the proviso.

Mr. *Ettrick.* This proviso is a new law tacked to the bill. This bill is a substantive bill, and will stand without this clause. I think, this clause draws in the good and the bad together. What could any man advise in such a case, when Westminster-Hall had voided the Charter of the city of London? And, therefore, a great man, for the benefit of his country, advised Surrenders. As to the matter of prudence, if all have been guilty, I would not mingle the nocent and innocent together.

Mr. *Finch.* I conceive, you are to consider, whether, first, you can, and next, whether you ought to receive this proviso. It is said, 'It came by report from the committee upon the precedent spoken of;' but upon the Journal it appears, that the proviso was rejected, and the bill passed. The committee sent it

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back, and could do nothing, and the parliament leave it out, and pass the bill. It is not what the counsel at the bar agree, but what the parliament think fit, not because they agreed it, and no counsel at the bar can touch upon the power of this house. It is natural to make a slight amendment at the table. I will not say any thing to the method of bringing in this proviso; the house did receive this, and voted it to stand part of the bill. I could wish the house had been fuller then, but the house may reject it now, and I hope they will. I doubt it is not capable of amendment. It leaves men under the terror of the 500*l.* penalty, if they do not incapacitate themselves. It was a fault, but it was general. It is said, in the preamble of the bill, 'The design was to pack parliaments,' and it is said, 'This Clause is to incapacitate persons that they should not be guilty of the like again.' Most gentlemen are sensible that the multitude of surrenders were after the *Quo Warrantos*; 'upon this,' says the bill, 'there was a design to pack parliaments.' It was not this that put them upon taking away the penal laws and the Test; it required another regulation. It was after all the regulations, that these men stood in the gap. It puts corporations as they were in 1675. If these men be put out of the bill, you put out the men of estates, and the ancient corporations are put into the hands of men of little or no fortune, and some call them the *mobile*. There is a clause in the bill that declares all Surrenders void; where is the danger of these men doing the same thing again? The former are in their offices and employment again. Leave this clause out, and you put in the rich men of the Corporations, and if this stands part of the bill, you put those in of no estates, and that have given no testimony of their affections to the government.

Sir *Robert Howard.* Instead of punishing men that have done ill, we are here making eulogiums on them. I am not for the Church of England with that famous doctrine some maintain. In queen Elizabeth's time, when she protected those in arms in Holland for their religion, the Church of England contributed their opinion as well as their money, and thanked the queen when she acted according to the steps and method of Popery. Then the divine right of passive obedience without limitation—If ever so many tyrants were complicated in a king, he must be obeyed. It was then they began with Corporations; I say, these were given out for doctrines of the Church of England, and delivered over to the civil execution. This was setting up that false doctrine of the Church of England.

Sir *Francis Winnington.* To the orders of the house. This is foreign to the debate.

Sir *Robert Howard.* I arraign those that arraign the Church of England of such doctrines; these men prepared Corporations to deliver up their Charters. The false representations of the Church of England's doctrine made way for those misfortunes that followed. This was the first cause; whatever they did to sacrifice lives, and for the times, was sanctified by this doctrine of non-resistance. The question is now, Whether you will do any thing to these people, or no? What think you the nation will say to all this? In the beginning of the Bill such a thunder, and so hard characters put upon men, and to close the Bill with nothing! And now to fix not only an obligation, but a character, that they are all fit for these employments! I have abhorred what was done in the late times, but rather than no mark of incapacity shall be put upon these men, I would part with the whole bill.

Sir *Tho. Littleton.* I would have this incapacity extend to none but such as forcibly delivered up the Charters, without consent of the majority.

Sir *Henry Capel.* It is said, 'That something of fanaticism is in this bill, by taking away of that Clause of the unlawfulness of taking up arms, or resistance, &c.' I said then, 'If Marshal Turenne should come out of France to invade us, should we not resist him?' Why did they not do their duty before the prince of Orange came over? Did these gentlemen ever think to find justices of peace, and judges, papists? Lewis xi had liberty to raise money till he called a parliament, and he never called one, and money has been arbitrarily raised without parliament in France ever since. You should have had parliaments, your bellies full, as Florence and Rome now have, the one to set the rates on chesnuts, and the other to regulate sick people.

Mr. *Coningsby.* 'Surrenderers were the scaffolds, and regulators were the builders; will you leave them out?—The Proviso was rejected, and the Bill passed.

Debate on sir Robert Sawyer's Prosecution of sir Tho. Armstrong.] Jan. 18. Mr. *Hawles.* A writ of error is a writ of right; and I am sorry it was left out in the Bill of Rights. How scandalous is it, when a man guilty of the murder of sir Tho. Armstrong should be protected within these walls! Warrants were directed out of this house for attaching lord Stafford, and he complained of it in the lords house as a breach of privilege, but the lords would not hinder the proceeding. They said, 'They had no privilege in those cases.' If you say, 'You cannot name a member without order at a committee,' you must recommit this Bill for repeal of sir Tho. Armstrong's Attainder, to do right: I do not understand it to be satisfaction for the estate of this person, but for the blood of this person. I would have the money for those that suffered, and those that suffered not. Why is it enquired, what this gentleman is worth? An Appeal may be brought by an infant, and he had 1500*l.* for the blood of his ancestor. In the case of Sacheverell and Blackwell, a writ of error was brought, and there was damage given for the blood of the ancestor. They who destroy the king's subjects, act against the king. He that preserves

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most of his subjects does him most service. In his natural capacity, he may destroy whom he pleases; in his politic capacity, those who are most guilty only. Armstrong offered a plea, and it was not allowed, and you have voted it 'Wilful murder.' When the thing is so plain, (though I would not punish for mere error) and you have voted it 'Murder,' sure it must be in somebody. Armstrong did not murder himself, and afterwards quarter himself; indeed sir Edmundbury Godfrey hanged himself, and afterwards stabbed himself! Were the judges and prosecutors guilty? They were all guilty. I am not for rigour, though blood cries for blood. Let them that require satisfaction have the money, and let all be reported to you.

Sir *Robert Sawyer.* Let all persons guilty suffer; but the question is, 'Whether I have been dealt withal by the committee as a member?' When the Bill was committed, a charge was brought against me, 'That I had proceeded against sir T. Armstrong arbitrarily and illegally.' It was said, 'it was ever the duty of an attorney-general to grant a writ of error;' but it was never done in any book of law. Application must be made to the king by petition, and he gives a warrant to the attorney-general to consent to it. The statute that gives the writ of error runs thus, 'Except in cases where the king is a party.' Ed. 3. The parties petitioned for error *tam quam.* It is a received opinion, that a writ of error lies not in those cases. Before the statute of Hen. 8, there was no writ of error but in the King's-bench, and all was by petition to the king. I did forbear to attend the committee because I opposed the Bill; they have waved that clause, but I am not exempted; you may hear it at the bar, and I am not exempted from it. It is the duty of every attorney-general upon an outlawry brought, and of course it is his duty to pray judgment of the court; which asks what he has to say. If he produces a plea, then the attorney replies. But that is an extraordinary thing to allege what Hawles says, &c. I desire there may be the strictest examination of my actions. No man can serve the crown, if he is an honest man, if he must be blamed for all the miscarriages of the Judges.

Mr. *Hawles.* Pray let it go back to the committee, with the directions of the house to find these men out, and spare me not if I be one. Upon the plea, the outlawry ought to be laid aside. It is the duty of the attorney to inform the court if running into an error.

Sir *Wm. Williams.* I shall speak to the recommitment. If you recommit this upon breach of privilege, for naming Sawyer at the committee, without acquainting the house, we go in a wheel; you only send it back to the committee to do nothing upon it. If it be your opinion, that is a breach of privilege upon Sawyer, he may be heard at the bar. It is fit that you put yourselves into some course. You cannot regularly send your member to a committee without instructions. Pray let us have plain dealing; will you recommit the bill with instructions? Else your member must be heard at the bar. You are told, 'There can be no writ of error in criminal cases where the king is a party, but by a warrant from the king;' but I take the law to be quite otherwise. He goes farther, and tells you, 'When the party brought either error, or a plea, he ought to have a warrant from the king, &c.' I drew the plea, though I was told, 'It was a snare for me,' and your Vote calls it, 'Murder, &c.' so you have justified that matter. When the plea was tendered, did any body move, that the plea should not be received? This is the answer of the attorney-general; all is put upon the dead (lord chief-justice Jeffreys) and the dead must answer for the dead, and 'the dead bury the dead.' If they had executed the part of an executioner, they had done all—I was asleep in the court. I heard not of it. Pray let us have it heard at the bar to-morrow.

Sir *Tho. Clarges.* I would recommit the bill upon the point of satisfaction and reparation. You are told, 'A great part of the money (Armstrong's) remains to his heirs, and settled before the Attainder;' and if any satisfaction is to be paid by any of your members, recommit it upon that point.

Sir *Robert Rich.* Before you put any question, I move, that the Order by which your committee sat, may be read.—[It was read.]

Mr. *Smith.* I move, to recommit the bill upon that point of reparation. I am satisfied that Armstrong suffered illegally, and I am willing there should be consideration had of his family, which might have been proper in the Indemnity. I think it not reason that there should be reparation out of Sawyer's estate, nor is he concerned.

Sir *John Lowther.* As for reparation, it will be found a thing not precedented, and as for the writ of error, we are not clear in it, therefore I would have it committed again. Though several precedents have been quoted by Hawles, yet no precedents of parliament, but all of Westminster-hall; if those should be precedents, they may misguide Westminster-hall to do the same thing again. I would willingly have precedents of Bills of Repeal of Attainder signed by the king, and sent down from the lords. Lord Russel's was so. To take an estate, descended to the right heirs, to be forfeited, I never heard of that before. Should this make a difference with the lords, the bill is not worth that.

Sir *John Guise.* It surprizes me that the house is not of the same opinion they were formerly of. You may have a member in the case, and, it seems, to-day, a member is not to be named, but if a member comes in the same circumstances as others, did I think I sat in the house with a murderer, I would not sit till I had thrown him out. I would recommit it upon the debate of the house. You ought to do justice to yourselves, that a man, guilty of murder, should not sit with you: let it be heard at the bar.

Mr. *Hampden.* I saw a learned plea drawn

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in that business; but pray let not reflections go amongst us upon the profession of the law. Great persons are descended from the law, and it is a very honourable profession. Our common law is founded upon reason. What law may do in *meum et tuum*, and conscience is very much enlarged.—Formerly, at least, what a lawyer said, must be probable for his client, but let it be how it will in this. But will you allow a lawyer in point of argument betwixt the crown and the subject? Is he not plainly to say what the law is in that case? It is true, in a doubtful case, the counsel ought not to do it; but, as to restitution, suppose a man killed a very poor man, do you think he owes nothing to the wife and children? nothing to reparation? If not, I have mistaken all the rules of justice. I say this, because I see those things have not their true value; they are under-valued; therefore I would lay it aside.

Sir *W. Williams.* I am for enlarging your instructions to the committee. I am for naming persons, but whatever persons come by description, within your Order, I would have examined, besides the three Judges; for I believe more were guilty than Burton and Graham. What was their crime? They went only from Whitehall to Newgate, and so to Westminster, like porters of the business; these are solicitors, these are attorneys, the prosecutors are the most guilty. Let the committee have general instructions. Your committee will make no reflections, but according to the right and custom of parliament, and the laws of England. No cause can be just on both sides. As the law stands, the prisoner can have no counsel, and when he has none, he that does prosecute without law against him, is a betrayer of the law.

Lord *Falkland.* I crave leave to add one case to Williams's, that of the prosecution of the Bishops, wherein our laws and liberties were concerned, which he prosecuted.

Sir *W. Williams.* Where there was counsel on both sides, I might be counsel.

Sir *Robert Cotton.* What concerns your member, you ought to put to the question, Whether the committee shall have Instructions to enquire into that; and now you leave them to general enquiry!—[It was said privately, 'That all this fencing was not to save Sawyer, but Finch.]

Col. *Birch.* I am never more afraid of Miscarriages than when it is our own concern. I know not what recommitment you mean, unless you tumble it to a committee to do nothing again. You named three or four, and your committee named a member, and you say, 'That is a fault.' This prosecution of Armstrong was more criminal in the solicitor and attorney general than in Burton and Graham to fetch and carry. But here is murder in the case, and you are going out of the way, unless you give leave, nay order, to read it at the bar. Solomon says, 'There is nothing new under the sun.' This may come again before you, for ought I know, therefore settle it now.

Mr. *Boscawen.* The committee ought to have made a special report. As to your member, you cannot do yourselves, nor your member, right, unless you give a day at the bar to hear it: and it is as necessary that the house justify themselves in their Vote as your member himself.

Sir *John Trevor.* Armstrong was my particular friend, and I am willing to do any thing for the satisfaction of his family. What will you do with it at the committee? Specially examine it? If your member be injured at the committee, then is your proper time to hear him at the bar: as it is just that the family should have reparation for their loss, particularly made out. It is true, you cannot make particular satisfaction for blood, but for his estate, if you recommit to enquire specially, and let them make a special report, then your member may justify himself.

Sir *Henry Goodrick.* I speak to your order; and what becomes of your committee's Report? I see, you cannot appoint a charge against your member, without a report, and the committee has given you none; therefore, I move, that if any charge arises at the committee, they may make a special report.

Mr. *Hampden.* When your member desires to be heard, I am ignorant why it should be denied. I must expect something singular, either that Armstrong was not murdered, or something to the ministerial matter, as he was a lawyer. Privately to give opinion that charters could not be delivered up without perjury, and yet to plead and use all the eloquence against the thing! If the profession of the law gives a man authority to murder a man at this rate, it is the interest of all men to rise and exterminate that profession. I would know what Sawyer can say.

Mr. *Dolben.* I find there is great stress laid upon Sawyer's being heard at the bar; but I cannot see how it can be, before the committee have reported special matter against him, without accusation of himself. It is plain, that Sawyer did not prosecute the whole indictment. He was indicted in Middlesex. If he that demanded execution be to be prosecuted, he that did the execution may be prosecuted too.

Mr. *Hampden.* Whether you will go to a committee for examination, and whether you will hear it at the bar, how your member is concerned, it is a question without a question. Nobody will be willing to be judged at a committee of 7 or 8 persons in a chamber to examine a member; or, in general, when a member has been concerned, it was never done, but if that arise, let it be reported specially. It is strange a committee should examine a member whether guilty, or not guilty. If you command the committee, before the Bill comes to perfection, you may hear your member answer in his place, and appoint a day for it. You yourselves cannot impower a committee to examine a member; it is the privilege of the house, and the privilege of every person in it. If a member falls in collaterally, if ever they hear a member named, they stand up and go no far-

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ther, but report it to the house. If they have done irregularly, will you do so too? Let it be recommitted, and your member may answer in his place.

Jan. 20. Mr. Christie reported the Bill recommitted for annulling sir Thomas Armstrong's Attainder, with some Amendments; and specially reports the above Information against sir Robert Sawyer.

Sir *Tho. Clarges.* In punishing persons, you may do a precedent of dangerous consequence for the future; therefore I would have Burton and Graham heard.

Sir *John Guise.* You have referred this to a private committee, and now they bring the Report to the house; is there any Objection that the committee have not done their duty? You had it once before you, and referred it to a committee.

Sir *Tho. Littleton.* Burton and Graham never made any application to the house to be heard, but the committee, that had power to send for persons, papers, and records, never sent for these persons.

Sir *Wm. Williams.* All cannot be heard; some are dead, and they cannot be heard, and by that consequence you cannot charge their estates. The judges are charged with giving a corrupt and illegal judgment; if these persons did it corruptly and maliciously, and these persons are in the Bill, it came naturally before the committee. Such persons as could be heard, were heard. I would do justice justly. I would hear them at the bar; but with what justice can you then hear Jeffreys's and Alibone's executors afterwards?

Col. *Austen.* As to the justness of it, they were summoned by the committee, and will not appear, and now they would be heard in the house. If, when you committed this Bill, and the committee named persons, you thought it not in their power, and these people would not appear there, I hope you will not receive their petition in the house. I hope you will begin with the special matter reported.

Sir *Christ. Musgrave.* A petition is offered, and you do not right unless you receive it. Armstrong was condemned without hearing, and will you do the same thing again? If nothing will appear on your books which was said in their defence, it is a dangerous precedent. Graham and Burton are in your custody; let us not go out of the common way of justice, but hear them.

Mr. *Hampden.* Some persons were prosecutors of Armstrong. I have observed, that all the arts of delay are used, and it is no strange thing for people to avoid punishment, and to take all legal advantages; but the question is, What you will do now in administration of your justice? One could not come, but Holloway and Wythens might, and now you are moved to hear them by counsel. I am of opinion they should be heard *ore tenus;* there is nothing to be heard upon the matter of fact. I think you will not hear them by counsel; they ought to answer for themselves. Here is nothing in the case but 'guilty, or not guilty.' I would have it brought to issue. If you will hear it, I would have no denial, for your justice will be as well in administration as execution. But if they come to be heard without counsel, every man answers for himself. You have declared already how the law stands: let your summons be short and peremptory, to appear at their peril.

Mr. *Garroway.* There is no need of counsel to trouble you. If the Judges, &c. appear, what they can say will do them little good; they will be in your Act of Indemnity; therefore hear them to-morrow morning, before you go on the Bill of Indemnity.

Mr. *Smith.* I agree to what is proposed, but you are told, 'The dead cannot be heard for themselves.' They have left executors, and order them to appear then.

Mr. *Hampden.* It is an odd thing to think of pains and penalties (as is moved) before you have found persons. If that be done, do you not look upon them as criminals? Suppose you say, 'Burton and Graham, &c. shall never act as attorneys in Westminster-hall, nor in the ecclesiastical courts:' Perhaps they are not guilty; therefore I think the Indemnity needs not stay for this. You need say no more, than that those who acted in Armstrong's prosecution shall make his family reparation, as well as to public justice.

Sir *Wm. Whitlock.* I do as much detest this murder of Armstrong, as any man, but I would give a reasonable time for hearing a man. Hearing a man suddenly is not hearing him. Pray let it be Saturday.

Sir *Robert Rich.* I am bound to believe, that every gentleman means cordially, and I shall be one of those to wipe blood off from this house. I have no malice, nor any relation concerned. I believe, those men are satisfied that they cannot justify themselves, but will be trifling with you. If you will do justice to the fatherless, tell them so; next to that, tell them that their cause is not good. But what consequence is there in hearing them all in a day; I never knew men without a contrivance; they may have the gout, or be sick. I watched your committee, and, according to order, your member, Sawyer, was named. Therefore pray go upon your member present.

Sir *Wm. Williams.* You have ordered the records of Armstrong's prosecution to be brought; pray let the officer be called in (sir S. Astrey,) to attend you, both with the records of the Outlawry, and the awards of execution. It may so fall out that matter of law may arise; therefore let it be indefinitely, not for bidding counsel.

Mr. *Smith.* The law says, 'A man shall not be executed in twelve months, &c.' and Armstrong appeared within that time; will you hear counsel as to that?

Ordered, "1. That sir R. Holloway, sir F. Wythens, the executors of the late lord Jeffreys, the executors of the late Mr. justice Walcott, Mr. R. Graham, and Mr. Philip Burton, do at-

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tend this house on Saturday next; to answer to such matters as are charged upon them, touching the proceedings against sir Tho. Armstrong. Ordered, 2. That sir Samuel Astrey do, at the same time, attend the house with the Records of the proceedings, both upon the Outlawry, and the awarding execution against sir Tho. Armstrong."

Then Mrs. Matthews, (sir Tho. Armstrong's daughter,) was called in, and asked, 'What she knew of the prosecution against her father; and, who were the prosecutors?'

Mrs. *Matthews.* "The judges were Jeffreys, Wythens, Holloway, and Walcott; Sawyer, Burton, and Graham, prosecutors. I was with Sawyer for a writ of error: He said, 'Your father must die, he must die; he is an ill man.' My mother was ready to pay him all his due fees, but he said, 'He must die, he must die.' When my father was brought to the bar, the chief justice asked Sawyer 'What he had to say?' Sawyer prayed an award of execution; which was done: My father desired that the statute of outlawries might be read. He said, 'He thought it was plain that he was come in within a year, &c.' Said Sawyer, 'sir Thomas Armstrong will not find any thing in the statute to his purpose; Possibly he will say, he surrendered himself to your lordship, but, sir Thomas, you should have surrendered yourself before you went out of England;' and he alleged Holloway's case. Said the chief justice, 'We have enough against him.' Said Sawyer, 'The king did indulge in Holloway's case, but Armstrong was active in the fire at Newmarket, and he has received dangerous letters,' whereas they were no more than a recommendation to the duke of Brandenbourg."

Sir *Robert Sawyer.* Be pleased to ask her, if, when she came to me for a writ of error, I told her, 'It was not in my power; she must petition the king?' And whether I demanded execution till the court had declared their opinion? and whether, after he said 'He had surrendered himself,' I demanded execution?

Mrs. *Matthews.* "I believe Sawyer said, 'It was not in his power to grant a writ of error,' and did say, 'You must apply to the king, or lord keeper, by petition.' The king and the duke said, 'It was an impudent petition.' I cannot say, Sawyer demanded execution before the Judges had declared themselves."—She withdrew.

Sir *Robert Rich.* You will hear those in the house, sure, as long as those out of the house. Before you debate your member must answer, and then withdraw. If by law, the member can justify himself; if the contrary, he may say something in mitigation. If the warrant of execution was signed by that demand, let him tell you whether it was by himself, or any body else.

Sir *Robert Sawyer.* I shall only observe, that the person who informs you of this, is single, and a person interested, when they might have produced multitudes of persons; and that will appear. I did no more than my duty. She said, 'I told her Armstrong must die, and that he was an ill man.' I call God to witness, I said it not, nor used such language. I said, 'I had no power to give a writ of error; it must be obtained by petition to the king.' As for my management at the arraignment, it was according to my oath and duty to attend the court. Every tittle of what passed was printed in three days, and went all over England. It was not only lawful, but my duty, to put Armstrong upon trial, to hear what he could say to the record of the outlawry, and I prayed judgment: if he had nothing to say, it was my duty to pray execution; I went no farther, not a tittle in this business. Armstrong quoted such a statute, and it was read in court. 'Has he rendered himself to the chief-justice?' 'No.' Armstrong said, 'I now render myself to your lordship.' This is the fact. I never argued to incline the court one way or another. The king indulged Holloway, but he had that against Armstrong that he could not allow it. It was my duty to demand judgment of the outlawry. The clerk of the crown will satisfy you fully.—He withdrew.

Sir *Robert Clayton.* I observe, Sawyer, before he went out, excused himself by the forms of the court, 'That he asked for execution but once;' and that, after the statute was read, and Armstrong said, 'He surrendered himself,' he sat down and said no more. I take it not for his crime to do his duty, but he ought to have informed the king what was law; for asking the thing contrary to law, the crime was charged; he had direction from the king. I think he comes well off to make satisfaction to these poor creatures, his daughters.

Mr. *Smith.* Sawyer tells the king, 'Armstrong ought to have a trial;' but does it appear that he offered any thing before the court had declared? Unless there be farther matter than I see yet, I find him not criminal.

Mr. *Hawles.* I did persuade Sawyer to give these ladies some money, and prevent the matter from coming here.

Sir *Henry Goodrick.* I hope Sawyer may come off; but for a member to make bargains in point of blood, is a strange thing, and ought to be taken notice of.

Sir *John Guise.* We are all about giving them something for the blood of their father, and it is no strange thing.

Mr. *Hawles.* I formerly cited the case of Blackwell and Sacheverell. Some say, 'I encouraged this matter;' and I have had hard words given me for it. As for Burton and Graham, they only brought Armstrong up, &c. but for an attorney-general, when he has that office, how comes it to pass that he must leave all rules of common honesty? I wish this gentleman had been as nice in spilling blood, as we are in punishing it. This was error in fact, and when so, the attorney-general ought to consent to reversing the outlawry, or to the demurrer. The statute says that to him, 'If he comes in in a year and a day.' The attorney-general ought to consider whether the fact

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was true, or not; if not, it ought to be reversed. If you believe Mrs. Matthews, Armstrong was condemned before he came into court. He said, 'He is an ill man, and must die.' Suppose the king tells the attorney-general, 'That is an ill man, let him be hanged, right or wrong;' he is bound to pursue the interest of his client, and it was for the interest of the king to preserve his subjects. He ought to have retracted, and told the court, there was error, and he might have had his writ. If it goes upon the justice of the house, it goes hard with Sawyer, not only as to satisfaction, but something farther.

Sir *Robert Cotton*. As Sawyer did his duty to the king, so he did to the prisoner. He asked the court, 'Whether he did surrender himself?' which put both the court and the prisoner in mind of it. He pressed not execution. If that was his duty, he was not to blame for it. He put the court in mind that there was something in this surrender. What he said and what he did in court is only before you; and he did his duty to God, the king, and the prisoner.

Sir *John Guise*. Sawyer has confessed a worse thing than he has been charged with. He told Armstrong, 'He had more evidence against him than against Holloway.' If Cotton takes the evidence right from the bar, it is of another sort than he mentions it. Sawyer is not accused for prosecuting as attorney-general, but he might have advised the contrary. Are not prisoners condemned upon the whole, and not upon the half? The most abominable part of an attorney-general he has acted. It is a small recompence to the family to have a fine for the loss of a man that might have been considerable in the war. Pray let him be brought into the Bill of Indemnity.

Sir *Joseph Tredenham*. The demand of judgment was not Sawyer's crime. He opposed not the reading of the statute. I would put no hardships upon persons who serve you in the courts of justice.

Mr. *Foley*. If your member was not a prosecutor, I wonder how Burton and Graham came to be so. Did he demand execution before the 12 months were expired? That is his crime, and you are to judge Sawyer upon that. Armstrong desired the statute might be read; your member said, 'That will do you no good,' for Sawyer pressed execution; and that is his crime; and things will never be well, till some of that profession be made examples.

Mr. *Hampden*, jun. I wonder it should be insisted upon, 'That demanding judgment should be no crime.' I would demand, whether the Jews were criminal for demanding judgment against our Saviour? When king Charles 1 was tried, solicitor-general Cooke demanded judgment against him—(I make no comparison.) But I ask, 'Whether nobody can be murdered but a king?' We have a new sort of monsters in the world, haranguing a man to death; these I call blood-hounds, that make speeches as long as my stick. Sawyer is very criminal, and guilty of this murder.

Mr. *Garroway*. I speak to discharge my conscience: I will not have the blood of this man at my door. This gentleman fled, and was outlawed, and abroad was trepanned by one Everis, who decoyed and brought him off. They had designed his death before he ever came in. There was a year and a day for him to appear, and plead, to reverse the outlawry. Sawyer demanded judgment against him, and execution. I believe Sawyer not so ignorant a man as not to know all this. I believe him guilty of the death of this man; do what you will with him.

Mr. *Boscawen*. When Armstrong demanded the reading of the statute, Sawyer said, 'That will do you no good.' Was not that a perverting judgment? To have an eloquent attorney-general tell what is law! Whoever perverts judgment, I shall never excuse him.

Mr. *Smith*. This gentleman takes a thing for granted that was not so. Sawyer said, 'The statute would do Armstrong no good.' I suppose, you will take it for granted, the gentleman may be mistaken, and understand not law. Suppose I draw a sword to defend a man, and he be killed, must I be hanged for him? If Sawyer, after the statute was read, did demand Judgment, I shall pronounce him guilty.

Mr. *Boscawen*. I appeal to the long-robe, whether, on a murder, the wife and children are not good witnesses against a man?

Marquis of *Winchester*. As to the mistake, Sawyer said, 'He refers himself to the prints.' Pray let them be seen. Sawyer said, 'The statute would do him no good;' and made a long speech after. This person is not fit for the king's mercy.

Sir *Wm. Williams* reads all the passages in the print, after reading the statute in the court upon the trial.

Sir *Wm. Whitlock*. I am against all manner of tyrannical proceedings. No man detests this murder more than myself. When he heard the statute read, not to be convinced! Would the judges have been so headstrong to do it unless he had demanded judgment? I believe lord Lovelace had been destroyed if Sawyer had not been attorney-general. You cannot distinguish this without the judges, face to face.

Sir *Christ. Musgrave*. I would know, whether a printed trial be evidence? If you read it, you will make a judgment. I think it not for the honour of the house to read it. If it be no evidence, why will you read it? You cannot ground a judgment upon what Westminster-Hall will not allow to be evidence. The person, Mrs. Matthews, who is evidence, is to have benefit by it. You may have persons of that court that can give you legal evidence. It is said, 'That Sawyer refers himself to the paper;' but the question is, Whether we can give judgment on it?

Sir *Henry Capel*. I desire that Westminster-Hall may not be a rule of evidence for this house. They are an inferior court; we, the great inquest of the nation. I will not appeal

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to the gentlemen of the long-robe; every man here has equally his judgment. I think, Sawyer referred himself to the print; if he himself appeals to it, read it.

Sir *Wm. Williams.* The question is, 'Whether the woman is in the right, or the print?' It is said by Trevor, 'He was by, and heard it not.' A hundred were by; that passes for nothing. The print is against Sawyer, the woman against him, and the fact against him; therefore put the question.

Sir *Tho. Littleton.* I am satisfied that every one of these prints is true, for they are like parts in a play; every body pauses upon his own part, and they sign it. The main thing that affects your member is not yet touched. Mrs. Matthews came with her father's case to Sawyer, who said, 'He must die.' If that be really so, and if the witness speak true, it looks like a designed thing by his answer. The statute was perverted, and the court so indiscreet as to say, 'Holloway had the benefit of it, for there was evidence against him.' Armstrong was tried in a cabinet before-hand. The proper question is, 'Whether Sawyer shall be put into the Indemnity, or not?'

Sir R. Sawyer expelled.] Resolved, "That sir Robert Sawyer's name be put into the Bill of Indemnity, as one of the prosecutors of sir Thomas Armstrong." And the question being put, That he be expelled the house; it passed in the affirmative, 131 to 71.

Debate on the Bills of Indemnity.] Jan. 21. Mr. *Sacheverell.* I move, that there may be particular names, and not descriptions, for that will be setting them free that are dead, for all the ills they have done, be they dead or alive; and having raised their own fortunes, if they can go off so in that manner, and leave children so great as to be noblemen, I desire not such families to be great in England. You have given your judgment upon a member yesterday, and if there be any more you shall think fit to name in this house, first either declare that none here shall be named, or if there be, that he shall withdraw; for else it is not equal justice. In all Acts of Indemnity there are general Heads, and under them except all that shall be excepted. To bind up your committee, that there shall be no general Heads, is to bind up your own hands. But if any thing appear before you have done your bill, I would not be bound up by any binding rule.

Mr. *Ettrick.* I think you have been well moved to name persons. Of those that are offenders against the government you are at liberty to name a hundred, man by man. You spent a great deal of time, the last session, when you went upon heads. There were no ill effects in Charles 2's time. How many men were there whose bloods cried for vengeance? There was a temper of reconciliation and union; now it is otherwise; we have a war in Ireland and Scotland, and are not satisfied with one another. There is nothing better than a reconciliation.

Mr. *Dolben.* I am for an experiment, to try now whether we shall have better success in naming persons. I would name persons, but I had rather that things found out persons, but those things are so far from finding out persons, that you have been forced to seek for persons without doors, records and offices, and with much ado you have found out one of ten persons concerned. You are desired now to try another way more likely to effect your end than to name persons. Some, like Cain, bear their brands about them. You will find enough to satisfy the justice of the nation. I think, the honour of the house is concerned. Here has been a mighty Revolution, an Abdication of the Crown, &c. and still you find not out the persons who were the occasion of all this. Instances of the late malversations are numerous. If you go the same way, you will have no more success this session than you had last. The way proposed will be more successful, because more expeditious: I believe it, and move it.

Mr. *Peregrine Bertie.* I move, that sir Wm. Williams may be excepted in the Indemnity.

Sir *Edw. Hussey.* I second it.

Sir *John Lowther.* It is well moved, to proceed upon persons, and not crimes; the objection against it is material; it may be thought by it to excuse the dead; the greatest criminals you have are dead. There may be persons found hereafter not yet found. Sure you will set persons at ease at last! I hope you will put the question, and every gentleman will agree to it.

Mr. *Howe.* There is great expectation from abroad of what we shall do in the Indemnity. I hope you will not put revenge beyond your justice. If it appears that, in the last reign, there was nothing done illegal, and that men were not driven out of their places that would not comply with Popery, &c. and by taking away charters, to pack parliaments and juries to murder lord Russel, and acquit count Coningsmark;* from whence comes the choice of such men, to return juries and votes in chusing parliament-men, and from whence have proceeded all the murders and imprisonments? I know no man in the house that has occasion of an Indemnity, but I hope not to see as formerly that *vitia in senatum veniunt.*

Sir *R. Cotton.* I am for coming to an end, and that you cannot do till you have named persons you will except. But by this way of debating crimes at large, you will sit to little purpose to arrive at your end.

Sir *R. Napier.* Some do not like the taking away Charters; that came *malum ab aquilone;* nor regulators—But if you take particular persons that carry the mark of Cain upon them, name them. There were men that sailed with every wind; one has been named, and I desire he may withdraw.

Sir *John Guise.* Things are evidence. You have before you a motion for Williams to with-

* For procuring ruffians to murder Mr. Thynne, in his coach, in Pall Mall.

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draw. I wonder that you name one, when there are more as well as he.

Sir *Henry Goodrick.* If I have a mind to name them, I have courage and heart to do it, but I am not compelled to name them.

Sir *John Guise.* I hear of quieting mens minds, and that this punishment will quiet the minds of some people. You owe it to justice to punish great offenders. Here is that High Commission Court; let that enquiry be instructions to the committee; you will see who they are, and there you may select such as are fit to make examples. That of Corporations too, both prosecuting and betraying Charters. The thing has been thrown from one to another; let the things speak themselves. The lords have sent you evidence; I believe, it is in your hands, it is an evidence, a record, and I desire it may be read.

The *Speaker.* By order of the lords, their clerk delivered some papers to your clerk; there was a message expected with it, and therefore I acquainted not the house with it.

Sir *Henry Goodrick.* When Papists, nay a Jesuit, sat in council, and since, by form of law, they have cut mens throats, I cannot come to a determination till we have purged our own house. Where there is a full proof, and full evidence, I will spare no man. But if you go generally, it may raise such consternations, that possibly there may be no safety for us to sit here, and, if settled, it will make men easy.

Sir *Tho. Lee.* I would forget and forgive. But seducing and exposing all England to the rapine of the Jesuits, they cannot sit here who have betrayed the nation—The late king sat safely when his council told him it was law. I move, that that may be taken first into consideration. I do recommend heartily not to proceed in general terms. Where there are faults, and those evidently proved, I would have them punished, but not to involve all England.

Col. *Birch.* As to the work before you, if you will not let things find out persons, you will not have done in a year; but the thing is to purge your own house. I am against it, and I desire you will proceed according to the orders of the house. It is said, 'Every body knows whom he means;' but I do not. There was a member expelled yesterday, though but glanced at, and no proof—I have heard members charged, but then the person that charges, stands up and declares he will make it good; that being done, the accused stands up and makes his defence; but before proof he is not to withdraw. This is the ancient usage of parliament, and I am ready that any body take up the first stone, and throw it at me.

Mr. *Foley.* What moved this instruction to the committee of the whole house, I understand not, nor to what end this motion was made. Are you resolved that men should escape, because you know not their names? I am against the question, and I would have the committee proceed as they think fit.

Mr. Solicitor *Somers.* It is absolutely necessary that some should be punished, for vindicating the king's honour, and to justify without doors what we have done. The motion was made to except no other general crimes than what are already excepted; the reason was, because there is the same exception in this, as in other Pardons; but this turns quite another way. In the Bill of Rights, you did consider offences there enumerated, &c. Men will find out crimes to undo kingdoms by new ways; therefore, unless you make new punishments, how will they be met with? Murders and rapes are easily done, but it requires learning and invention to subvert laws and government? Is it only murders, felonies, rapes, &c. you are to prevent? You will make sorry work else with them that occasioned the Abdication of king James. Whenever you name persons, must not you name offences at last? You will spend as much time one way as the other, but it is of infinite consequence that the crimes be stated, else the next age will not know why you have punished, persons. Upon the whole, if you will have the world see the crimes you have punished, you ought to leave it entirely to the committee. State the Heads, and leave it to them to adapt persons to it.

Mr. *Hawles.* I have a great value for the common-law, which never enquires into murder till you find it a murder, nor a robbery, till it be found so. I am clearly of opinion, that else you will run into great absurdities; as in the Bill of Corporations, &c. the Judges ran up fines from 1000*l.* to 40,000*l.* Then you took other methods; as in Richard 2's time, there were judgments against judgments, and for some hundreds of years you heard no more of them. Go to that which is the most crying sin, the delivering up of every man. Persons have been irregularly executed. When a man is put into power, they make him do what they list. A person was kept out a good while that sat in your chair, (Williams;) at last they brought him in; he sat in your chair, and acted for you, and afterwards was fined 10,000*l.* for it, and was afraid that his life would have been taken away; if he owns that, I hope you will pass him by. Except as few as you can in the Bill, but it is the readiest way. Charters, and the Dispensing Power, were but the consequence of the former.

Mr. *Garroway.* I am against naming persons till you have agreed to things. I never heard of a person accused here, but he found somebody to excuse him. They that do not like the thing to be punished, let them go upon another Head. But since your last sitting, there has been such management, that if it be not punished upon another Head, I see a melancholy prospect of our safety; since the king does not know the persons that have abused him. Find out things, else you will never find out the persons, nor come at them as long as you live. If you will go upon prosecutors, go upon all, and find them out by what they have done.

Col. *Austen.* It seems to me a natural way to go upon things. Suppose I find who was most

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obnoxious, and has led you out of the way of the government, is there any difficulty then to name persons? Therefore, for the ease of the committee, give directions to come to persons by things, and then I am for as few as you please; and not from things to persons.

Sir *R. Howard.* I think an Act of Indemnity is expected, and I acknowledge that all Revolutions, (though this is one of the strangest) have been followed with an Indemnity. To propose a censure on persons, and not tell you why, is very strange.

Major *Wildman.* To me it seems strange, that any member should name a person that ought to be excepted, before crimes are stated. The matter is worthy of great consideration, what sorts of crimes you will make examples to all futurity, by naming a man for some sort of crimes where he may be involved in the usual way of mercy. But some are involved in one thing, some in another, that cannot be proved till we see crimes. It is not our business to consider an Act of Indemnity for crimes punished by ordinary course of justice, but of murders in form of law; to tell the king who must die, this crime the common courts of justice cannot punish. For subverting the law, &c. the gentlemen of the long robe of this house would be hard put to it to form an indictment against such a person. A parliament may judge common law treason; and an intention to subvert the government, endeavours to subvert the laws and liberties of England; the parliament declares what that crime is, and then you find out the persons that committed them. How can a man find out the occasion of the prince of Orange's coming hither to deliver us from arbitrary government and Popery? No man can take upon him to destroy the liberties of this house, and judge it in Westminster-hall. Let every one agree a crime to be excepted, and then you will easily bring persons under that Head. I do not intend (upon explanation of myself) that I would have you declare what crimes you will not except, for the Heads of offences are numerous.

Serjeant *Maynard.* I think, the less Instructions you give the committee, the better you will proceed. Those that would have perverted our souls and estates, have been against our religion, laws, and liberties. As for those that anciently did go to subvert and overthrow a government, a common judge had nothing to do with it, but it was referred to the senate of the people. The archbishop and the bishops were brought to trial by a jury, at the King's-bench bar, for a modest and dutiful petition to the king, to be made a libel. Some have made a matter of excuse for the Judges, 'That they were convened to tell the king what might be done by law, and made excuse, as in H. 4th's time, that it was for fear of death;' but a man ought not to save his life by subverting the laws, who is sworn to maintain them. But that served not their turns then for an excuse. As for the Charters, &c. no man can doubt but they are highly guilty that would have subverted law and parliament. There was a call of serjeants and judges for that purpose. Whenever this comes to a committee, I would not give general Instructions, for you will bring in a multitude of persons. I concur to name persons with their crimes. The Trial Book is no evidence: God forbid any man should be hanged by a Book!

Mr. *Harley.* Upon the Instructions I confess my ignorance, therefore I desire to be informed, whether you will except persons without crimes? Will not you adjudge crimes for persons to be excepted out of the Indemnity? If you take persons at random, possibly you may not take them that are most guilty.

Mr. Attorney *Treby.* You are upon a strange motion, to my understanding, Instructions to a committee. I remember not that ever done to a committee of the whole house—I am not an advocate for the times of usurpation. The family I come of adhered to the crown. As I have suffered in Charles 1st's time, I abhor those on the scaffold with vizors, and those that sat in the Court of Justice. The more latitude you give your committee, the better you will do your work. I would rather except persons by name, but then you must do it by that way that some would preclude your committee from. You except them from pardon, and reserve them for hearing. Those who would establish Popery I would not name, because they are in the dark. Those urged the prosecution of the Bishops, and the dispensing with the Oaths and Test; they were great enormities, but destroying Corporations was the mother-treason that brought forth all these. If the Judges had not so much law, they had so much wit as would have told them the thing you fear; viz. 'Your judgment will destroy parliaments: you dispense with thirty or forty statutes.'—The most mercenary Judge in Westminster-hall would not have had the courage to do this, they would never have done it, but they thought themselves parliament-proof. 'It is but nominal, (they said) not real—only a number of packed malefactors, like yourselves, and no danger from them.' I can no more endure that these should be pardoned, than to set all the jails in England open, to let loose rogues and malefactors. He that would have these pardoned, let that gentleman stand up next after me, and say so. There have been ill things in court, but much worse out of court. They tried Holloway, because they had evidence; against Armstrong they had none. It is confessed, that we granted Holloway trial, there was enough against him: There was the virtue of that good man Sawyer. Against Armstrong we had nothing; therefore try him upon the Outlawry; and he was hanged without trial. Some are in the dark, no man knows their names; but except them upon that—It is reasonable that there should be no cramping a committee; let them go into it, without farther Instructions.

Mr. *Sacheverell.* Now it is manifest, that, if you go upon persons, and not things, you may as well say you will neither go upon persons nor things. If you put the question for general Instructions, that may be something, but if you

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put it as now, the whole house sees the meaning of it.

Mr. *Hampden.* We all mean very well. You had a question proposed. I never saw such an one go abroad before. If one questions for persons, and not things, then those persons are put to the question, Whether they shall be punished? For what? For nothing. Another desires it may be proved upon persons; for what? for crimes, sure. These kind of questions are strange. Were it not more clear to name your crimes? And then we may the more impartially give judgment. In all courts, in all judicatures, they say, 'Here is the law, and here is the fact, and then try if the persons be guilty of this fact.' A man to be tried, and to be guilty of a crime which is not defined? No question that has been proposed is fit to stand upon your Books. Every body means well, but not well expressed.

Mr. *Smith.* I take every gentleman's intentions to be sincere; but whether shall there be a general exemption, or not? I believe there are people in the dark that deserve exceptions. You have not yet found out the persons who advised these Ecclesiastical Commissions. You see only the actors. These things were done, and people never knew the authors, and, unless you prevent these private orders, you may have them for the future; and as long as persons sit in the lords' house that are accused of these things done in the dark (lord Halifax) I shall never think we are safe.—Upon exceptions taken at some words,

Lord *Falkland.* I did say, that Arnold said, 'That from the abdication of king James, to the pardoning those rogues that gave up the Charters, they had always given ill Votes.' I should not have taken notice of this, if I had not too much reason to believe there has been too much notice taken of what has been said in this house abroad.

Mr. *Arnold.* If the gentleman had taken all I said, I applied it to those out of this house, perhaps to those of the Devil-Tavern Club, but I applied it not to members of the house.

Sir *John Trevor.* I am not for this; it is not the way, to be in heat; this is not Indemnity; at this rate, we shall want Indemnity here. Some things carry Pardons in themselves. I desire pardon and pity. In Hen. 6th's time, some great peers contended for precedency without doors, because it was so in the lords' house. They were ordered to shake hands, and be friends, and go on with the business of the kingdom. I would do so now.—The previous question for proceeding on the Bills, by nominating of particular persons, passed in the negative, 190 to 173.

Debate on a Petition from sir Thomas Pilkington, Lord Mayor of London, and others.*]

January 22. Sir Peter Rich attended in his place, according to the Order of the house, upon a Petition from sir Thomas Pilkington, lord mayor of London, and others, who were fined on pretence of a riot at the election of Sheriffs for the city of London in 1682.* The Petition was read; and sir Peter Rich was heard, what he had to say in his own defence. After which, a motion was made, That leave be given to bring in a Bill to make reparation to the lord mayor, and the rest of the petitioners, out of the estates of the persons mentioned in the Petition.

Sir *Tho. Clarges.* I advise, that this judgment against my lord mayor, and others, may be reversed by writ of error. Where will this end, to bring these things into parliament, which may have remedy elsewhere? What a flood will you bring upon yourselves in these things? The troubles began not in the times of these gentlemen. I doubt, whether there have been any lawful sheriffs of London these seven years, ever since the Charter was taken away. We have had great revolutions, a king abdicated, great wars upon us, and why should these things be brought upon us to trouble the people? I cannot enumerate the consequences. This will be an occasion of great inconveniences upon us. In the late usurpation, lord Capel, lord Holland, col. Penruddock, and others, were murdered, and yet those who sat upon them were pardoned; only some few examples were made, of the most execrable, for quieting the minds of the people. At this rate, we shall be a court to give damages out of one man's estate to another. I would reject the Bill.

Sir *Henry Capel.* I observe, that arguments are used against this Bill from the Indemnity in 12 Ch. 2. which was occasioned by a time of great misery; but that was not this case; it was then a civil war, brother was against brother. That case is out of doors. It is said, these gentlemen may find remedy in Westminster-hall. If that was the case (as it is not) I think this house has the liberty, in such a case of importance, to take notice of it. You have been told what was done in the time of lord Shaftsbury, and in Mr. Bethel's, but it was lord Rus-

* "Pilkington was sheriff of London in the year 1682; an honest, but an indiscreet man, that gave himself great liberties in discourse. He being desired to go along with the mayor and aldermen to compliment the duke upon his return from Scotland, declined going, and reflected on him as one concerned in the burning of the city. Two aldermen said, they heard that, and swore it against him. Sir Patience Ward, the mayor of the former year, seeing him go into that discourse, had diverted him from it, but heard not the words which the other swore to: and he deposed, 'That, to the best of his remembrance, he said not those words.' Pilkington was cast in 100,000*l.* damages, the most excessive that had ever been given." Burnet.

* The above-mentioned pretended riot was at Guildhall the same year concerning the right of nominating Sheriffs, when the lord mayor, in opposition to the common hall, nominated North and Rich, who were accordingly returned and sworn Sheriffs; and Pilkington, and others who opposed it, were tried and fined the year after.

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sel's case then, and now it is time to make an example.

Sir *John Guise.* You are told, 'We must be guided by the Indemnity in Ch. 2nd's time.' I hope we shall ever be at liberty of judging whether things are well or ill done. There has been something said by a member that a little surprizes me, 'That if you bring a bill to do right in this case, a court may be erected to give damages out of one man's estate to another.' There are crimes that excel others; do you know any thing of a greater degree than this? Where was there more violation of the laws, than in taking away charters? And where more of charters than London? If you will go upon matters, and not persons, must not this of charters be one? There are mixed cases in these things upon the public, and upon persons. This is an extraordinary case, and there must be such remedies applied, that no such thing shall be dared to be attempted for the future.

Mr. *Hawles.* I have some reason to understand this case. I had leave from this house to attend the lords in this case, to reverse this judgment by writ of error. If the king must give this damage, (at whose suit it was) you must give it him again. Will you make satisfaction in the Bishops case? I am for that too, to every person concerned. There is no remedy but here, and I am for retaining the bill. A parliament was anciently called every year, or oftener. The parliament then was a court of justice, to relieve on extraordinary occasions. There were juries over-awed by judges; Bethel and Cornish took another course, to find honest men; this was complained of, and they must have new juries and officers, and lord Russel suffered upon it. You have the Indemnity of Ch. 2. mentioned. This is not a bill of punishment, but a bill of satisfaction, to value wrongs they have done; and you may pardon them for the crimes. If you ask the value of the affection of father and children, they cannot tell what they are; go as far as you can, if these are faulty, and the petitioners may come for satisfaction. It is a reasonable bill, and I hope you will accept it. Would you have a return to what you are delivered from? It is a just bill.

Mr. *Hampden.* We have a great matter before us in debate, because it is so extraordinary. This matter, it is true, does relate to a common indemnity; but, I think, it is not promoted by justifying every thing that has been done, nor punishing, but to prevent, for the future, the same thing again; and that, if there be not this bill to deter men, they may fall into the same offences. Some men call this 'a punishment,' and some, 'a reparation,' but it is in a sense both. Some satisfaction and reparation ought to be made these persons according to natural justice, but it is one thing what a man in conscience ought to do, and what you compel him to do; it is one thing what a man in strict justice is bound to. To make men pay a sum by such a law, I cannot readily consent to it; I have heard nothing fully to satisfy me. This, truly, is an injury done, and, in conscience, they are bound to make reparation. That of Armstrong was a just judgment of reparation. Corruption is not taken in that limited sense of 'taking money:' corruption is taking a place of 1500*l.* per ann. In a common case, brave men, soldiers, condemn a man for delivering up a castle, or fort, because he is afraid to keep it; and they should have known that before he undertook to keep it. There needs not common-law, nor statute-law, in the matter; it is against common sense. If you say there is no other law, you will quickly be distinguished out of all your liberties. I am of opinion, therefore, 'That the Petition for leave to bring in a Bill, to make reparation to my lord mayor, and the rest of the petitioners, from sir Peter Rich, and others, do lie upon the table;' but not to go barely off so, for they have done notoriously, and I cannot believe that men, able to make a common bargain, should give up their sense and reason in that manner. This was not done only against the city of London, but against the whole kingdom, and if you are not bound to give particular reparation to the persons injured, you are to the public, and, in the mean time, to remove the person, sir Peter Rich, from your company.

Sir *Christ. Musgrave.* When a bill is brought in for satisfaction of injury done, it is strange that a gentleman should start another question. If you talk of removing people, it is a strange thing. Keep us to a question. This Petition sets out 'that the petitioners can have no remedy in the Exchequer,' and you are told of the prudence of it. Will it be an act of prudence to give reparation, when they may have it out of the exchequer? The question is, Whether they shall have a bill, or not a bill?

The Petition was read, and Musgrave was mistaken in the contents.

Sir *Robert Rich.* I see nothing in the petition as is alleged. I see, virtue is virtue still, though it wants encouragement. It is plain, the petitioners can have no remedy but here, but by an *innuendo;* therefore pray put the question.

Serjeant *Maynard.* If these gentlemen will thrust themselves into the office of sheriffs, and have made returns, they have meddled with what they had nothing to do. Whether rightfully sheriffs, or *de facto* only, that alters the case. Whenever you will have justice against the king, you must go to the exchequer for it. Never so much injury, and no remedy there! When they come there, the barons are bound to give judgment in restitution. Their only way is to send out a writ to the tally-office to pay the money. Upon the whole matter, leave them to have their liberty to have an action of law.

The question for bringing in a Bill to make reparation to the lord mayor, and the rest of the petitioners, out of the Estates of the persons mentioned in the Petition, was carried in the negative, 169 to 152.

An Amendment to the Corporation Bill carried in the Affirmative.] Jan. 23. The house

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of lords went into a committee to consider of the Bill, intituled, 'An Act to restore Corporations to their antient Rights and Privileges.'—The house was resumed, and the earl of Mulgrave reported, That the committee of the whole house have been upon the first enacting Clause in the Bill; and it is the opinion of the committee, that the words 'declared, and were and are illegal,' should not stand in the Bill.—Then this question was put, Whether to agree with the committee in leaving out those words? It was resolved in the affirmative, contents 38, proxies 13, in all 51; not content 39, proxies 4, in all 43 *.

Protest thereon.] Memorandum, That the lords following, before the putting of the abovesaid question, desired leave to enter their Dissents if the question was carried in the affirmative, and accordingly they do enter their dissents as follow:—"1. That there hath been only two cases cited, in all the law books, towards the maintaining the Surrender of Corporations, viz. Dyer 273, 282. The opinions in these cases are not upon argument, the first of them, as appears by the Book, needed, and had an act of parliament to confirm it, being denied to be law, in my lord Coke's third report, in the dean and chapter of Norwich's Case, 44 Eliz. The other of them denied to be law by the judges of the King's-bench in Fulcher and Heywood's Case in 2 Ch. 1. in Palmer's Reports; and by the express Resolution of the Judges in that case a Corporation cannot, by surrender, dissolve itself. 2. Because that Beda, in the time of Hen. 5. and the corporation of Newbury, did surrender to that king, which was not allowed; but the house of commons called upon them to send up members, notwithstanding the said surrender; and, until they petitioned the said house, setting forth their inability of supporting that charge, they were not excused; but the house allowed their petition, and they have sent none since. 3. The Surrenders in debate being for the intent and purpose of returning such parliamentmen whom the king should appoint, was for the subversion of the laws and liberties of England, and introducing of Popery and arbitrary government; and that the putting out these words seems to be the justifying of the most horrid action that king James was guilty of during his reign; and we humbly conceive, a denying the chiefest grievance mentioned in king William's Declaration when he was prince, and the greatest inducement for the people's taking up arms in defence of their liberties and properties, and Protestant religion, and the establishing this king upon the throne. (Signed) Bolton, Herbert, Macclesfield, Bedford, Ashburnham *, Montagu, Vaughan, Stamford, Sidney."

* "When it was brought up to the lords, the first point in debate was upon the declaratory part, Whether a corporation could be forfeited or surrendered. The lord chief justice Holt, and two other Judges were for the affirmative, but all the rest for the negative. No precedents for the affirmative were brought higher than the reign of Henry 8, in which the abbies were surrendered; which was at that time so great a point of state, that the authority of these precedents seemed not clear enough for regular times. The house was so equally divided, that it went for the bill only by one voice. After which, little doubt was made of the passing the act. But now the applications of the Tories were much quickened: they made the king all possible promises; and the promoters of the bill saw themselves exposed to the Corporations, which were to feel the effects of this bill so sensibly, that they made as great promises on their part. The matter was now at a critical issue: the passing the bill put the king and the nation in the hands of the Whigs; and the rejecting it, and dissolving the parliament upon it, was such a trusting to the Tories, and such a breaking with the Whigs, that the king was long in suspence what to do. He was once very near a desperate resolution, he thought he could not trust the Tories, and he resolved he would not trust the Whigs. He imagined, however, that the Tories would be true to the queen, and confide in her, though they would not in him. He therefore resolved to go over to Holland, and leave the government in the queen's hands.—Upon this he called together the marquis of Carmarthen, the earl of Shrewsbury, and some few more, and told them that he had a convoy ready, and was resolved to leave all in the queen's hands, since he did not see how he could extricate himself out of the difficulties into which the animosities of parties had brought him. They pressed him vehemently to lay aside all such resolutions, and to comply with the present necessity. Much passion appeared among them; and the debate was so warm, that many tears were shed. In conclusion, the king resolved to change his first design into another better resolution, of going over in person into Ireland, to put an end to the war there. The queen knew nothing of the first design, so reserved was the king to her in a matter, that concerned her so nearly. The king's intention of going to Ireland, appeared by the preparations, that were ordered; but a great party was formed in both houses to oppose it. Some really apprehended, that the air of that country would be fatal to so weak a constitution; and the jacobites had no mind, that king James should be so much pressed, as he would probably be, if the king went against him in person. It was by concert proposed in both houses on the same day, to prepare an Address to the king against this voyage: so the king, to prevent the address, came to the parliament, and acquainted both houses with his resolution of going in person to Ireland, 'and as I have' says he, 'already ventured my life for the preservation of the religion, laws and liberties of this nation, so I am willing again to expose it, to secure you the quiet enjoyment of them." Tindal.

* John Ashburnham, esq. created baron Ashburnham May 30, 1689.

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The King's Speech at the Prorogation.] Jan. 27. The king came to the house of peers, and gave the royal assent to the Poll-bill; to the Bill to prevent 'vexatious Suits against such as acted in order to the bringing their majesties;' to the bill 'for the better security and relief of Irish Protestants;' and three private bills. After which he made the following Speech:

"My lords and gentlemen; I am so sensible of the readiness you have shewed to supply me with Money for the carrying on the war I am engaged in, that I am glad of this occasion to give you thanks for your chearful dispatch of that matter, which was absolutely necessary for the common safety. The best return I can make to your kindness is, to assure you, that, as far as it will go, it shall all be employed to the purposes it was given.—It is a very sensible affliction to me, to see my good people burthened with heavy Taxes; but, since the speedy recovery of Ireland, is, in my opinion, the only means to ease them, and to preserve the peace and honour of the nation, I am resolved to go thither in person, and, with the blessing of God Almighty, endeavour to reduce that kingdom; that it may no longer be a charge to this. And, as I have already ventured my life for the preservation of the religion, laws, and liberties of this nation; so I am now willing again to expose it, to secure you the quiet enjoyment of them. The spring draws on; and it being requisite I should be early in the field, I must immediately apply my thoughts to the giving orders for the necessary preparations; which that I may have the more leisure to do, I have thought convenient now to put an end to this session."

The Parliament dissolved.] Then the Speaker (the lord chief baron Atkins) by his majesty's command prorogued the parliament to the 2nd of April; but on the 6th of Feb. it was dissolved by proclamation; and a new one was summoned to meet on the 20th of March.*

Proceedings on the General Election.] "The general Election" says Ralph, "became now the general concern. And such was the ferment of the two parties, that it disturbed the whole nation from the bottom to the surface. The press had full employment on both sides, as usual. In the State Tracts we yet see the names of Hampden and Wildman prefixed to a formal defence of the Convention-Parliament:* and as this contains the glosses of the Court-Whigs on the late proceedings, so there is another Paper still extant, which, though levelled at the very root of the Tory interest, very artfully upbraids the king with departing from his old friends and his old principles; and, at the same time, endeavours to persuade the public, that his majesty had dissolved the parliament, only to be in a better condition of observing the one, and of making up all breaches with the other. At the end was inserted a list of 150 Tory members, who had voted againt the Abdication: and no care nor cost was wanting to circulate this inflammatory Paper all over the kingdom. The Tories also on their part circulated a list of those who had voted for the Corporation-Bill, who were stigmatized for Republicans, Fanatics, Latitudinarians, or Atheists, as the Tories had been for Jacobites: and under the influence of these mutual reproaches, and every other unfair and corrupt practice, the returns were made on both sides. As to the result of all, it is certain, that though many of the abovementioned list were thrown out, and Whigs were elected in their places, the majority was composed of Tories, as the latter had foretold, in case the Corporation-Bill was rejected. Even the city of London, alienated in affection to the king, by the artifices of the Whigs, as it is represented by bishop Burnet, fell into the court scheme, and returned sir Wm. Turner, sir Samuel Dashwood, sir Wm. Pritchard, and sir Thomas Vernon, who were on the Tory list, in opposition to sir Tho. Pilkington, lord mayor, sir Robert Clayton, sir Patience Ward, and sir Wm. Ashurst, the old members: and though the latter had pretensions to complain of an undue election, and did afterwards prefer a petition accordingly, they found it to no manner of purpose. In short, bp. Burnet makes no scruple to say, 'The Elections went generally for men, who probably would have declared for king James, if they could have known how to manage matters for him.'—The Whigs, however, though soon sensible of their inferiority, did not throw up the cards; but on the contrary, resolved to make their court to the king, at the expence of their adversaries; that is to say, either to oblige them to act as Whigs, and thereby bring them into disgrace and contempt with their party without doors, or from their refusing to do so, to infer they were Jacobites, and, by consequence, to break the new alliance which had been formed between them and the court: and, agreeable to this plan, when the New

* "The king was now reduced to the necessity of taking a bold and decisive step. The hopes and fears of two contending factions rested upon his resolution. They vied with each other in the diligence of their applications, and the liberality of their promises. But the prizes for which they contended were unequal. The one sought only the chance of power, or to preserve the capacity of being admitted to it: the other, a monopoly, or exclusive possession of it. Nor was the alternative of equal consequence to the king. The question was not, whether he should prefer one party to another, but whether he should maintain the power of a preference or a choice. If he consented to the bill, he surrendered into the hands of the Whigs, one of the most important branches of his prerogative, the free election of his servants. He consulted with his confidential friends: he was perplexed and agitated: he pondered in his mind a desperate purpose. He thought of relinquishing a dignity which he found cumbersome and distressful." Somerville.

* See Appendix, No. iv.

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Parliament was on the point of meeting, they set forth a Paper in which they first affected to give a detail of the hopes and views of the disaffected, upon the late Dissolution, and to indicate the steps necessary to be taken, to disappoint them; which were, in substance, to recognize the authority of the late parliament, and the legality and equity of the king's title, and to make some examples of the many criminals in the two late reigns. But though this Paper was calculated to be a sort of Test of his majesty's own conduct, as well as that of his new allies, it was no farther considered at court than it favoured the court views. The Evil Counsellors, against whom the prince of Orange had declared and whom he came over to punish, king William had resolved to forgive; and the party on whose shoulders they stood, seemed now to stand foremost in his majesty's favour."

Several Changes at Court.] "As if to mortify the Whigs yet farther, two days before the new parliament was to meet, his majesty dismissed the lords Monmouth and Warrington, and sir Henry Capel from the Treasury-Board, and made sir John Lowther first commissioner, who had risen thus high under the patronage of the marquis of Caermarthen. He also removed lord Godolphin; possibly on account of his attachment to the princess of Denmark, and her favourite, lady Marlborough: but continued Mr. Hampden, who had so much the less reason to rapine at Lowther's being placed above him, because he was made chancellor and under-treasurer of the Exchequer. Sir Stephen Fox, and Mr. Thomas Pelham made up the rest of the board, which now consisted of two conformable Whigs, and two as conformable Tories. About the same time also, Herbert, lord Torrington, was removed from the head of the Admiralty, and the earl of Pembroke (who had been the king's embassador extraordinary to the States) was appointed to succeed him. This drew on the resignation of sir Miles Wharton, and Mr. Sacheverel; and, instead of promoting two in their places, the commission was closed with the name of sir John Chichley only. Burnet adds, 'That other lesser changes were made in inferior places, so that Whig and Tory were now pretty equally mixed; and both studied to court the king, by making advances upon the Money bills.'"

FIRST SESSION OF THE SECOND PARLIAMENT OF KING WILLIAM III.

List of the House of Commons.] March 20. This day the New Parliament met at Westminster. The following is a List of the Members of the House of Commons:

A LIST of the HOUSE of COMMONS in the SECOND PARLIAMENT of King WILLIAM, March 20, 1689.

Abington,
Simon Harcourt.
Agmondesham,
Edmund Waller,
William Montagu.
St. Albans,
Sir Samuel Grimston,
George Churchill.
Aldborough, (Suffolk)
Sir Henry Johnson,
William Johnson.
Aldborough, (Yorkshire)
Christopher Tancred,
Sir Michael Wentworth.
Allerton, North,
Sir William Robinson,
Thomas Lascels.
Andover,
Hon. Francis Pawlet,
John Pollen.
Anglesea,
Richard visc. Bulkley.
Appleby,
Hon. William Cheyne,
Charles Boyle.
Arundel,
James Butler,
John Cook.
Ashburton,
Sir Richard Reynell,
William Stawel.
Aylsbury,
Simon Maine,
Sir Thomas Lee.
Bambury,
Sir Robert Dashwood.
Barnstaple,
Sir George Hutchins,
Arthur Champneys.
Bath City,
Joseph Langton,
William Blaithwayt.
Beaumaris,
Thomas Bulkley.
Bedfordshire,
Hon. Edward Russel,
Thomas Brown.
Bedford Town,
Thomas Hillersden,
Thomas Christie.
Bedwin,
Sir John Raymond,
Francis Stonehouse.
Berkshire,
Sir Henry Winchcomb,
Sir Humphrey Forster.
Berwick,
Sir Francis Blake,
Samuel Ogle.
Beverly,
Sir Michael Wharton,
Ralph Wharton.
Bewdley,
Henry Herbert,
Lord Herbert.
Bishops Castle, dble. ret.
Walter Waring,
Henry Newton,
Robert More.
Bletchingly,
Thomas Howard,
Sir Robert Clayton.
Bodmin,
Nicholas Glynn,
Russel Roberts.
Boralston,
John Smith,
Sir Henry Hobart.
Boroughbridge,
Sir Henry Goodrick,
Sir Brian Stapleton.
Bossiny,
Samuel Travers,
Humphrey Nicholas.
Boston,
Hon. Peregrine Bertie,
Sir William Yorke.
Brackley,
John Blencoe,
Henry Mordaunt.
Bramber,
Nicholas Barbon,
John Ratcliffe.
Brecon County,
Sir Rowland Gwyn.
Brecon Town,
Jeffrey Jeffreys.
Bridgwater,
Sir Francis Warre,
Robert Balch.
Bridport,
John Michel,
Sir Stephen Evans.
Bristol,
Sir Richard Hart,
Sir John Knight.
Bridgenorth,
Sir Edward Acton,
Sir William Whitmore.
Bucks County,
Hon. Thomas Wharton,
Richard Hampden.
Buckingham Town,
Sir Richard Temple,
Alexander Denton.
Calne,
Henry Chivers,
William Wyndham.
Cambridgeshire,
Sir Robert Cotton,
John lord Cutts.
Cambridge Town,
Sir John Cotton,
Granado Pigot.
Cambridge University,
Edward Finch,
Henry Boyle.
Camelford,
Ambrose Manaton,
Henry Manaton.
Canterbury,
Sir William Honeywood,
Henry Lee.
Cardiff,
Thomas Mansel.
Cardigan County,
John Vaughan.
Cardigan Town,
John Lewis.
Carlisle,
Christ. Musgrave,
James Lowther.
Caermarthen County,
Sir Rice Rudd.
Caermarthen Town,
Richard Vaughan.
Caernarvon County,
Sir William Williams.
Caernarvon Town,
Sir Robert Owen.
Castle-rising,
Sir Robert Howard,
Robert Walpole.
Chester County,
Sir John Manwaring,
Sir Robert Cotton.

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Chester City,
Sir Thomas Grosvenor.
Sir Richard Leving.
Chichester,
Sir Thomas Miller,
Thomas May.
Chippenham,
Alexander Popham,
Richard Long.
Chipping Wycombe,
Charles Godfrey,
Thomas Lewis.
Christ's Church,
William Etterick,
Francis Gwynn.
Cirencester,
Richard How,
John How.
Clifton,
Sir Joseph Herne,
William Hayne.
Clithero,
Roger Kenyon,
Fitton Garrard.
Cockermouth,
Sir Orlando Gee,
Sir Wilfrid Lawson.
Colchester,
Sir Isaac Rebow,
Sir Thomas Cook.
Corf-Castle,
Richard Fownes,
William Culliford.
Cornwall County,
Hon. Francis Roberts,
Hon. Hugh Boscawen.
Coventry,
Richard Hopkins,
John Stratford.
Cricklade,
Edmund Webb,
Charles Fox.
Cumberland County,
Sir George Fletcher,
Sir John Lowther.
Denbigh County,
Sir Richard Middleton.
Denbigh Town,
Edward Brereton.
Derbyshire,
Sir Gilbert Clark,
Henry Gilbert.
Derby Town,
Anchitel Grey,
Robert Wilmot.
Devizes,
Walter Grubb,
John Methuen.
Devonshire,
Francis Courtney,
Samuel Rolle.
Dorsetshire,
Thomas Strangeways,
Thomas Freke.
Dorchester,
James Gould,
Thomas Trenchard.
Dover,
Thomas Papillon,
James Chadwick.
Downton,
Sir Chas. Rawley,
Maurice Buckland.
Droitwich,
Rd. earl of Bellamont,
Philip Foley.
Dunwich,
Sir Robert Rich,
John Bence.
Durham County,
Sir Robert Eden,
William Lambton.
Durham City,
William Tempest,
George Moreland.
Eastlow,
Charles Trelawney.
Henry Trelawney.
Edmunds Bury,
Sir Robert Davers,
John Harvey.
Essex,
Sir Francis Masham,
Sir Charles Barington.
Evesham,
Sir James Rushout,
Edward Rudge.
Exeter,
Sir Edward Seymour,
Christopher Bale.
Eye,
Henry Pooley,
Thomas Davenant.
Flintshire,
Sir R. Pullestone.
Flint Town,
Thomas Whitley.
Fowey,
Jonathan Rashleigh,
Shadrach Vincent.
Gatton,
Sir John Thompson,
Thomas Turgis.
Germains, (St.)
Daniel Elliot,
Henry Fleming.
Glamorgan,
Bussey Mansel.
Gloucestershire,
Sir John Guise,
Sir Ralph Dutton.
Gloucester City,
William Cook,
William Trye.
Grampound,
John Tanner,
John Buller.
Grantham,
Sir John Brownlow,
Sir William Ellis.
Grimsby,
Sir Edward Ayscough,
John Chaplin.
Grimstead,
Sir Thomas Dyke,
Lionel earl of Orrery.
Guildford,
Morgan Randell,
Foot Onslow.
Harwich,
Hon. Charles Viscount Cheyne,
Sir Thomas Middleton.
Haslemere,
George Bridges,
Dennis Onslow.
Hastings,
Hon. John Beaumont,
Peter Gott.
Haverford West,
William Wogan.
Helston,
St. John St. Aubin,
Charles Godolphin,
Herefordshire,
Sir Herbert Crofts,
Sir Edward Harley.
Hereford City,
Paul Foley,
Henry Cornwall.
Hertfordshire,
Sir Thomas Pope Blunt,
Ralph Freeman.
Hertford Town,
Sir William Cowper,
Sir William Leman.
Heydon,
Henry Guy,
Matthew Appleyard.
Heytesbury,
William Ash,
William Trenchard.
Higham Ferrers,
Thomas Andrews.
Hindon,
Robert Hyde,
John lord Fitzharding.
Honiton,
Sir William Drake,
Sir Walter Yonge.
Horsham,
John Mitchel,
Thomas White.
Huntingdonshire,
John Dryden,
John Proby.
Huntingdon Town,
Sidney Wortley,
Richard Montagu.
Hythe,
Sir Philip Boteler,
William Brockman.
Ilchester,
Sir Edward Wyndham,
John Hunt.
Ipswich,
Sir John Barker,
Sir Charles Blois.
Ives, (St.)
James Praed,
William Harris.
Kellington,
Francis Fulford,
Jon. Prideaux.
Kent,
Sir John Knatchbull,
Sir Thomas Roberts.
Kingston upon Hull,
Charles Osborne,
John Ramsden.
Knaresborough,
T. Fawks, by one indent.
Henry Slingsby, &
C. Stockdale, by another
Lancaster County,
James Stanley,
Sir Ralph Ashton.
Lancaster Town,
Roger Kirkby,
Thomas Preston.
Lanceston,
Barnard Grenville,
Henry lord Hyde.
Leicestershire,
Bennet lord Sherrard,
Sir Thomas Hasilrig.
Leicester Town,
Sir Edward Abney,
Laurence Carter.
Leominster,
Thomas Coningsby,
John Duttoncolt.
Leskard,
Sir Bouchier Wray,
Emanuel Piper.
Lestwithiel,
Sir Bevil Grenville,
Walter Kendal.
Lewes,
Thomas Pelham,
Richard Bridger.
Lincolnshire,
Hon. G. visc. Castleton,
Sir Thomas Hussey.
Lincoln City,
Sir John Bolles,
Sir Edward Hussey.
Litchfield,
Robert Burdett,
Richard Dyot.
Liverpool,
Jasper Mawdit,
Thomas Norris.
London,
Sir William Pritchard,
Sir Samuel Dashwood,
Sir Thomas Vernon,
Sir William Turner.
Ludlow,
Silas Titus,
Francis Lloyd.
Ludgershall,
Thomas Neale,
John Webb.
Lyme-Regis,
Henry Henley,
John Burridge.
Lymington,
John Burrard,
Thomas Done.
Lynn-Regis,
Sir John Turner,
Daniel Beddingfield.
Maidstone,
Sir Thomas Taylor,
Thomas Ryder.
Malden,
Charles Montagu,
Sir Eliab Harvey.
Malmsbury,
Hon. Goodwyn Wharton,
George Booth.
Malton,
Sir William Strickland,
William Palmes.
Marlborough,
Sir John Ernley,
Thomas Bennet.
Marlow, dble. ret.
James Chase.
Sir William Whitlock.
James Chase,

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Ralph Bucknel.
Mawes, (St.)
Sir J. Tredenham,
John Tredenham.
Melcomb Regis.
Henry Henning,
Thomas Freke.
Merioneth,
Sir John Wynne.
Midhurst,
Sir Wm. Morley.
John Lukener.
Middlesex,
Sir Charles Garrard,
Ralph Hawley.
Milbourn-Port,
Sir Thomas Travel,
Sir Charles Carteret.
Minehead,
John Sandford,
Alexander Lutterel.
Michael, (St.)
Francis Scobell,
Humphrey Courtney.
Monmouthshire,
Ch. marq. of Worcester,
Thomas Morgan.
Monmouth Town,
Sir Charles Keymis.
Morpeth,
George Fenwick,
George Nicholas.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
Price Devereux.
Newark upon Trent,
Hon. Wm. lord Eland,
Sir Francis Molineux.
Newcastle under Line,
Sir Thomas Bellot,
Sir John Levison Gower.
Newcastle upon Tine,
Sir Ralph and Wm. Carr.
Newport, (Cornwall)
John Specott,
John Morice.
Newport, (Hants)
Richard Leveson,
Sir William Stevens.
Newton, (Lancashire)
George Cholmondley,
John Bennet.
Newton, (Hants)
Rd. earl of Ranelagh,
Thomas Done.
Norfolk County,
Sir Jacob Astley,
Sir William Cooke.
Northamptonshire,
Sir Andrew St. John,
John Parkhurst.
Northampton Town,
Sir Will. Langham,
Sir Justinian Isham.
Northumberland County,
William Forster,
Philip Bickerstaff.
Norwich,
Thomas Blofield,
John Ward.
Nottinghamshire,
Sir Scroop How,
William Sacheverell.
Nottingham Town,
Charles Hutchinson,
Richard Slater.
Okehampton,
William Carey,
John Burrington.
Orford,
Thomas Glemham,
Thomas Felton.
Oxfordshire,
Montagu lord Norris,
Sir Robert Jenkinson.
Oxford City,
Hon. Henry Lertie,
Sir Edward Harley.
Oxford University,
Hon. Heneage Finch,
Sir Thomas Clarges.
Pembrokeshire,
Sir Hugh Owen.
Pembroke Town,
Arthur Owen.
Penryn,
Alexander Pendarvis,
Sidney Godolphin.
Peterborough,
Gilbert Dolben,
William Brownlow.
Petersfield,
Robert Mitchell,
Richard Holt.
Plymouth,
John Grenville,
John Trelawny.
Plimpton,
John Pollexfen,
Sir John Trevor.
Pool,
Sir Nathaniel Napier,
Anthony Lord Ashley.
Pontefract,
Hon. Henry Dawney,
Sir John Bland.
Portsmouth,
Hon. Edward Russel,
Nicholas Hedger.
Preston,
Sir Charles Greenfield,
Sir Edward Chisenhall.
Queenborough,
Sir John Banks,
Robert Crawford.
Radnor County,
John Jeffreys.
Radnor Town,
Robert Harley.
Reading,
Sir William Rich,
Sir Henry Fane.
Retford,
John Thornhaugh,
Richard Taylor.
Richmond,
Sir Mark Milbank,
Theodore Bathurst.
Ripon,
Sir Jonathan Jennings,
Jonathan Jennings.
Rochester,
Sir Joseph Williamson,
Caleb Banks.
Rumney,
Sir Charles Sedley,
John Brewer.
Rutland County,
Bennet Sherrard,
Sir Thomas Mackworth.
Rye,
Sir John Austin,
Thomas Frewen.
Ruegate,
Sir Jn. and Jn. Parsons.
Salop County,
Hon. Rd. Lord Newport,
Edw. Kynaston.
Salop Town,
Hon. Andrew Newport,
Richard Mytton.
Saltash,
Narcissus Luttercl,
Michael Hill.
Sandwich,
John Thurbane,
Edward Brent.
Sarum, New,
Thomas Hoby,
Thomas Pitt.
Sarum Old,
Sir Thomas Mompesson,
William Harvey.
Scarborough,
Lord Irwyn,
Sir Charles Hotham.
Seaford,
William Champion,
Henry Pelham.
Shaftsbury,
Edward Nichols,
Sir Matthew Andrews.
Shoreham,
Sir Edw. Hungerford,
John Petty.
Somersetshire,
Sir Edward Philips,
Nathaniel Palmer.
Southampton County
Ch. marq. of Winchester,
Richard Norton.
Southampton Town,
Sir Charles Wyndham,
Sir Benj. Newland.
Southwark,
Anthony Boyer,
John Arnold.
Staffordshire,
John Gray,
Walter Chetwynd.
Stafford Town,
John Chetwynd,
Jonathan Cope.
Stamford,
Charles Bertie,
William Hyde.
Steyning,
Sir John Fagg,
Robert Fagg.
Stockbridge,
William Montagu,
Richard Whitehead.
Sudbury,
Philip Gardon,
John Robinson.
Suffolk,
Sir Jervis Elwys,
Sir Samuel Barnardiston.
Surry,
Sir Richard Onslow,
Sir Francis Vincent.
Sussex,
Sir John Pelham,
Sir William Thomas.
Tamworth,
Sir Henry Gough,
Michael Biddulph.
Tavistock,
Robert lord Russel,
Sir Francis Drake.
Taunton,
Edward Clarke,
John Speake.
Tewkesbury,
Richard Dowdeswell,
Sir Francis Winnington.
Thetford,
Sir Francis Guybon,
Baptist May.
Thirsk,
Thomas Frankland,
Richard Staines.
Tiverton,
Thomas Bere,
Sir Anthony Kecke.
Totness,
Henry Seymour,
Thomas Coulston.
Tregony,
Hugh Fortescue,
Lord Kildare.
Truro,
Sir Henry Ashurst,
Henry Vincent.
Wallingford,
William Jennings,
John Wallis.
Warwickshire,
William Bromley,
Andrew Archer.
Warwick Town,
Lord Digby,
William Colemore.
Wareham,
Thomas Erle,
Thomas Skinner.
Wells,
Hopton Wyndham,
Edward Berkeley.
Wendover,
Richard Beke.
John Blackwell.
Wenlock,
Sir William Forrester,
George Weld.
Weobly,
Robert Price,
Thomas Foley.
Westbury,
Peregrine Bertie,
Richard Lewis.
Westminster,
Sir Walter Clarges,
Sir Stephen Fox.
Westmoreland,
Sir John Lowther,
Sir Christ. Musgrave.
Weymouth,
Sir John Morton,
Michael Harvey.

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Whitchurch,
James lord Russell,
Christopher Stokes.
Winchelsea,
Robert Austin,
Samuel Weston.
Winchester,
William lord Powlet,
Frederick Tilney.
Windsor,
Sir Charles Porter,
Sir William Scawen.
Wilton,
Sir Rd. Grabham Howe,
Thomas Wyndham.
Wiltshire,
Lord Cornbury,
Sir Walter St. John.
Woodstock,
Sir Thomas Littleton,
Thomas Wheate.
Wootton Basset,
Henry St. John,
John Wildman.
Wygan,
Peter Shakerly,
John Byrom.
Worcestershire,
Sir John Packington,
Thomas Foley.
Worcester City,
Samuel Swift,
Charles Cocks.
Yarmouth, (Norfolk)
George England,
Samuel Fuller.
Yarmouth, (Hants)
Henry Holmes,
Charles Duncombe.
Yorkshire,
Lord Fairfax,
Sir John Kay.
York City,
Robert Waller,
Henry Thompson.

SPEAKER,
Sir John Trevor.

Sir John Trevor chosen Speaker.] His majesty, in the house of lords (by sir Robert Atkins, lord chief baron of the exchequer, and Speaker of the house of lords) commanded the commons to proceed to the choice of a Speaker; and the house being returned, sir John Lowther, vice-chamberlain to his majesty, humbly proposed to the house, "That he conceived sir John Trevor* both for his great experience in parliamentary affairs, and knowledge in the laws, was every way qualified for that employment;" and accordingly he was, on the question put, allowed of, and chosen for the Speaker, and immediately conducted to the chair by sir John Lowther and sir Henry Goodrick; where he acknowledged the great honour the house had done him; withall saying, "That he feared they had done themselves a great prejudice in making choice of him; and therefore he desired their leave to disable himself before the royal throne, that they might thereby have an opportunity of making a better choice."

The King's Speech on opening the Session.] Mar. 21. The house of commons attended the king in the house of lords, where his majesty, after confirming sir John Trevor Speaker, and allowing of and granting their usual privileges, was pleased to make the following Speech:

"My lords and gentlemen; I am resolved to leave nothing unattempted, on my part, which may contribute to the peace and prosperity of this nation; and finding my presence in Ireland will be absolutely necessary for the more speedy reducing of that kingdom, I continue my resolution of going thither as soon as may be; and I have now called you together for your assistance, to enable me to prosecute that war with speed and vigour; in which I assure myself of your cheerful concurrence, being a work so necessary for your own safeties.—In order to this, I desire you will forthwith make a settlement of the Revenue; and I cannot doubt but you will therein have as much regard for the honour and dignity of the monarchy in my hands, as hath been lately showed to others:* And I have so great a confidence in you, that if no quicker or more convenient way can be found for the raising of ready Money, (without which the service cannot be performed) I shall be very well content, for the present, to have it made such a Fund of Credit as may be useful to yourselves, as well as me, in this conjuncture: not having the least apprehensions, but that you will provide for the taking off all such Anticipations as it shall happen to fall under.—It is sufficiently known how earnestly I have endeavoured to extinguish, or at least compose, all differences amongst my subjects, and to that end, how often have I recommended an Act of Indemnity to the last parliament! But since that part of it which related to the preventing of private suits, is already enacted, and because debates of that nature must take up more of your time than can now be spared from the dispatch of those other things which are absolutely necessary for our common safety; I intend to send you an Act of Grace, with exceptions of some few persons only, but such as may be sufficient to show my great dislike of their crimes; and, at the same time, my readiness to extend protection to all my other subjects; who will thereby see that they can recommend themselves to me by no other methods, than what the laws prescribe; which shall always be the only rules of my government.—A farther reason, which induces me to send you the Act at this time, is, because I am desirous to have no colour to any of my subjects for the raising of disturbances in the government; and especially in the time of my absence; And I say this, both to inform you,

* "Sir John Trevor was a bold and dextrous man, and knew the most effectual ways of recommending himself to every government. He had been in great favour in king James's time, and was made master of the rolls by him; and if lord Jeffreys had stuck at any thing, he was looked on as the man likeliest to have had the great seal. He now got himself to be chosen Speaker, and was made first commissioner of the great seal. Being a Tory in principle he undertook to manage that party, provided he was furnished with such sums of money as might purchase some votes; and by him began the practice of buying off men, in which hitherto the king had kept to stricter rules." Burnet.

In March, 1694, he was expelled the house, for receiving a gratuity of 1000 guineas from the city of London, after passing the Orphan's Bill; and Mr. Foley succeeded him as Speaker.

* "Sometimes the king would say, he would not stay and hold an empty name, unless he had a revenue for life. He said once to bishop Burnet, that he understood the good of a commonwealth as well as of a kingly government, and it was hard to determine which was the best; but he was sure, the worst of all governments was that of a king, without treasure and without power." Burnet.

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and to let some ill-affected men see, that I am not unacquainted how busy they are in their present endeavours to alter it.—Amongst other encouragements which I find they give themselves, one of the ways by which they hope to compass their designs, is, by creating differences and disagreements in your councils; which I hope you will be very careful to prevent; for be assured, that our greatest enemies can have no better instruments for their purposes, than those who shall any ways endeavour to disturb or delay your speedy and unanimous proceeding upon these necessary matters.—I must recommend also to your consideration an Union with Scotland. I do not mean it should now be entered upon; but they having proposed this to me some time since, and the parliament there having nominated commissioners for that purpose, I should be glad that commissioners might also be nominated here, to treat with them, and to see if such terms could be agreed on, as might be for the benefit of both nations; so as to be ready to be presented you in some future session.—My Lords and Gentlemen; I have thought it most convenient to leave the administration of the government in the hands of the queen, during my absence; and, if it shall be judged necessary, to have an act of parliament for the better confirmation of it to her, I desire you would let such a one be prepared to be presented to me.—I have this only to add, that the season of the year, and my journey into Ireland, will admit but of a very short session; so that I must recommend to you the making such dispatch, that we may not be engaged in debates, when our enemies shall be in the field: for the success of the War, and the more thrifty management of it, will both principally depend upon your speedy resolutions; and I hope it will not be long before we shall meet again, to perfect what the time will not now allow to be done."

The Speaker, and the house of commons being returned, the rest of the day was employed in taking the Oaths, &c.

Debate on the King's Speech.] March 22. The Speaker reported and read to the house his majesty's Speech, as above.

Sir *John Lowther.* I should be glad to be informed of the method by which you will proceed, in the consideration of the king's Speech: nothing is more certain, that not only the good of this nation, but of all Europe, depends upon your resolutions. I move, that the house may go into a committee, which is most proper for gentlemen to have liberty to speak as often as they please. No one man can comprehend what he has to say, at once.

Sir *Tho. Lee.* I should be glad to know the business of that committee, when we go into it. The Speech is of divers parts. One part is most necessary to be immediately thought of, and that is of Supply; the reason why you support the war, is to support the kingdom; that being so, you will but misspend your time on Supply. I thought you would have been moved to give the king Supply by a vote for it.

Sir *Tho. Clarges.* I observe, that, in part of the king's Speech, the king speaks of 'the Revenue,' and I think that is Supply.

Mr. *Hampden.* I am in some difficulty what to say. It is not the first time I have seen a committee have general directions. If a Supply be moved for, then you are to go into a committee, to consider the matter.

Sir *Edw. Seymour.* According to the ancient rules and orders of the house, you may consider all the other parts of the king's Speech, but of Supply, nothing. You are not to part with Money upon any consideration, without consideration. If you will go upon all the parts, except what relates to Supply, you may; but there is no consideration of such moment, as to take off your padlocks from Money, considering the poverty of the nation.

Sir *Henry Goodrick.* I agree with Seymour that, if Supply be first moved, then you go into a committee. The king desires 'a settlement of the Revenue, as other monarchs have had;' it is not immediately a Supply.

Sir *Christ. Musgrave.* If you consider the granting a revenue, you go against the methods of the house. We are told, 'this is not granting Money,' but I take it to concern money as much as may be. It is giving money, and then you ought to appoint a day for the consideration of that motion: I hope you will not precipitate matters, so as to break the rules of the house. I am as ready to support the government as any man, and you are secure not to suffer by going according to the rules of the house. I would appoint a day.

Sir *John Lowther.* I would not have any body think, that I intended, by my motion, to surprize the house. I did not understand 'a Bill for the Revenue' to be a motion for Supply; but if that be the sense of the house, I am for a farther day; and I doubt not but, the necessity of the motion considered, you will appoint a speedy day. If those who understand the method of the house better than I, agree for a Bill, I move for to-morrow morning; but because I would not displease nor surprize any body, for my own part, though there be prudence on one part for a longer day, there are affections on the other side for a speedy day.

The *Speaker.* The reason of a grand committee is, that there should be no surprize. In the late king James's time, the house immediately entered into a grand committee, because the motion of Supply was not opposed. You may put the question for to-morrow.

Mr. *Hampden.* It is moved for 'to-morrow to go into a grand committee, to settle the king's Revenue.' The motion is said to be for raising Money. The house does ever religiously observe order every way. I ever shall be for it; but, in that question, I would not involve another question. Gentlemen say, 'settling the Revenue is granting Supply;' but let us hear why and why not. But keep to that first question, 'That a motion being made for settling the king's Revenue, to appoint a day to consider of it.'

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Sir *Edw. Seymour.* Your Books will direct you. Put your question in the words of your Order, and that will direct you.

Mr. *Sacheverell.* I would a little consider and open what is to-morrow's work. I have always been of opinion, that the French king is the most likely to trouble England, and I doubt not but gentlemen will not give a million in trade to support him. I have showed it formerly, as manifest as the sun shines. I can bring undeniable proofs of it out of the Custom-House books. But if you settle the Revenue before that be considered (which will be done in a day or two) till that be, I cannot give my consent to give away so great a sum.

Sir *Henry Goodrick.* This must be, in consequence, settling a new Book of Rates, but you cannot remedy this: unless you bring all others into the same prohibition, yours will signify little; but if the meaning be for a new Book of Rates, you have not time now to do it. All Europe will have a vast advantage by having that trade, and you will lose it. I would have gentlemen tell us, whether it be practicable in a month's time?

Mr. *Sacheverell.* I did not talk of a prohibition, only the consideration of so great an evil, and when the house has an account of it, I only lay it before you.

Sir *Tho. Clarges.* If he moves not for a new Book of Rates, he moves for nothing. How comes this to you? Now you are to consider of the Revenue, he tells you 'that the Trade with France is a million.' I believe, by the Book of Rates, of 27 or 28 years standing, comparing it when in war, there is a great over-balance. That Paper of the French Trade has walked this house long. But, as Sacheverell uses to say, 'he would have things aboveboard,' if you settle the Revenue on the king and queen, without the Book of Rates—I have heard say, that it may be done in a week's time. We may have peace with France, *Par quaritur bello.* I would so settle Trade as it may be for the future.

Mr. *Papillon.* I believe all gentlemen have the same dislike to France; but it was that Book of Rates he mentions, when the court favoured France. I have known the time, when the French trade was an advantage to England; but now we are in war with France; but when we come to peace, then it will be proper to make a settlement of the Rates; but if you make one now, you must make a new one then, when time is proper. Now we are at enmity with France, it will be of no advantage at all, but loss of time.

Sir *John Knight.* I was in hopes that Sacheverell, when he gave you an account of French Trade, would have told you how trade is now carried on with France. There is a ship at Bristol with all commodities for France. I desire it may be considered.

Resolved, nem. con. "1. That the humble and hearty Thanks of this House be presented to his majesty, for his gracious Speech. 2. That the house will assert and support the Government under their present majesties king William and queen Mary, both by their counsels and with their assistance, to the utmost of their power. 3. That the whole house do attend his majesty with the said Resolutions; and that this house will, on Wednesday next, take into consideration his majesty's gracious Speech."

March 25, 1690. The Speaker reported, That, in Answer to the Resolutions of the house, presented yesterday to his majesty, his majesty was pleased to express himself to this effect:

"Gentlemen; I thank you for your Address, and for your Resolution to assist and support me: and as I have ventured my life for the nation, so I am resolved always to do. I hope you will take my Speech into your speedy consideration, and that this may be a happy session."

This day, sir Thomas Mompesson, in his place, asked pardon of the house, and of Mr. Okeden, for assaulting Mr. Okeden in the lobby, an account thereof being given by Mr. Piper and col. Trelawney, members of the house, and the serjeant at arms, and door keepers; and the Speaker acquainted sir Thomas "That the house had considered that he was an ancient member, and therefore were very indulgent to him by their Resolution, which he acquainted him with, and required him to ask pardon accordingly," which he did do.

Debate on settling the Revenue.] March 27. The house went into a grand committee, on the Supply. Mr. Hampden, chancellor of the exchequer, in the chair.

Sir *John Lowther.* It was your Resolution yesterday to go to-day into a grand committee, to consider of Supply. The first paragraph of the king's Speech is about 'settling the Revenue,' and it is to that I stand up to move you. For rescuing you from arbitrary government, and restoring you to your religion and laws, the king has done his part; there remains our part to be done. The reducing Ireland is a great work to be done; the king is willing to go thither in person, to make your charge easy; and I hope the king's return will be victorious and speedy: and when he does expose his person, and we are at our ease at home, for expressing our gratitude I move you 'to settle the Revenue on king William and queen Mary for their lives.'

Serj. *Maynard.* If the king be necessitous, he will have necessitous counsellors about him. The Revenue of the crown-land is all gone, it is aliened from him; he can have nothing from his land, but from parliament. The question is, What and for how long you will give him? A king in want can never be quiet. As for the Revenue, I would not have it too much. Consider *Quantum, quomodo, et quamdiu.* I move, 'That it may be settled for three years.' As king of England, if all were quiet, I would have it for life; that the king may be a freeholder as well as we. As for the relief of Ireland, that is a distinct consideration by itself.

Sir *John Thompson.* You cannot put the question, 'for settling the Revenue for life,'

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without leave from the house. The Order is, 'to consider about Supply.'

Sir *Tho. Lee.* I always thought, that they that gave the crown of England 'a Revenue,' gave 'Supply.' I speak only to order. I think 'the matter of the Revenue' is the only debate before you.

Sir *Christ. Musgrave.* I think you cannot put that question; before you come to that, you must go to the particular parts of the Revenue; you must tell us what you mean by 'Revenue.' As for the Excise, part of it is hereditary; it was so, and I know not what has made it otherwise. Before you put the question, I would know whether all the Customs and Excise be complicated in the question. Would you have all the Revenue for years turned into lives? First, consider whether any part be hereditary, and whether you will make it all so; when that is ordered, then consider Supply.

Mr. *Paul Foley.* I would know what the Revenue is, and what it is likely to prove, and not to settle a Revenue for life, as is necessary in war, but in time of peace. When Ch. 2. returned, it was generally agreed, that 1,200,000*l.* per ann. was a sufficient Revenue to support the government; in the next parliament, it was not pretended that more was requisite, but that, the Revenue came not up to so much. I know not what the Revenue is now; but I have heard, that in Ch. 2's time, it was two millions, and more in king James's time; therefore I would have you consider, and it is worth your while to consider: If you settle such a Revenue, as that the king should have no need of a parliament, I think we do not our duty to them that sent us hither. Therefore I would know what the Revenue is.

Sir *Edmund Jennings.* I remember the method in king James's parliament, and why now we should take other precedents, I know not. If you desire to preserve the Church and State, will you not settle such a Revenue as will do it, and why is not this king to be trusted as well as king James? Either we shall run back to Popery and Slavery on the one hand, or anarchy on the other. What will neighbouring princes say, if we do not do by this prince, as we have done by the former? I doubt we shall find ill effects afterwards. I have no court-employments to expect or lose, only I would save Religion and Property: therefore settle the Revenue upon this king, as upon king James.

Sir *Robert Cotton.* We cannot answer the king's ends, without doing as is moved. You must settle a Fund, and you must distinguish the Hereditary Revenue, and a Fund. I would express my gratitude to the king, but there must be some certain number of years to have a fund.

Mr. *Hutchinson.* You have been moved 'to settle a Revenue upon this king, as upon king James.' I would know whether that had so good effect, as to settle it so now, and whether so extravagant a Grant can be good either for a good or a bad prince? If you gave this Revenue to a bad prince, you cannot now decently take it away; if you give it to a good prince, he may be thrifty, and may have a Bank, and may presume upon it to destroy our Liberties. If a prince be prodigal, he is more safe than if thrifty; but it is an odd sort of safety, and to be given to Pensioners to betray their trust. I would have the Revenue known.

Mr. *Pelham.* You are told, 'that the Revenue came to two millions in king Charles's and king James's time; but, as to what is said of the ill effects of it in king James's time, none of that mischief came by that Revenue, but upon what was given him afterwards, which enabled him to raise his Army, and bring in Popery.

Sir *Joseph Williamson.* By complication of several parts, the question becomes more difficult. The scope of the king's Speech being Supply, that is properly before you; but as to the other language of it, of settling a Revenue for a Supply, you must think well upon it before you come to a Resolution. In matter of Supply, the question is not strictly held to it by firsting, seconding, and thirding it, but it is to be opened, so as freely to give a judgment, whether we can make the one or the other. Till it can be showed, that settling the Revenue is the Supply, I cannot come up to the question. A Supply is necessary; we cannot sit here else. A Revenue, for the king to live with honour and comfort upon, every body is for, so as to provide for the monarchy, in whose hands soever it is, that parliaments may be frequent. There are some alive, that know all, and have felt, that, when princes have not needed Money, they have not needed us. I have seen princes undone by those methods, that they have been made believe would establish them. I drive at this: will gentlemen show us what part of the Revenue is a Fund to supply the present necessity practicable and effectual? In this case, wherein all our safeties are at stake, that that should be given for Money which is none! I have heard say, 'There is a great Revenue, 1,200,000*l.* a year.' I would ask, what can be taken up upon that uncertain Revenue? For that point so to give, that we may be still called to give—This way will be to anticipate the Revenue—For the pressing occasions, if there can be laid down a Fund for the present necessity to be anticipated, it will be a guard still for a parliament. I would give such a Supply as to prosecute the war with speed and vigour; and I leave the consideration of it to other persons.

Mr. *Harbord.* 'To supply the king' will be without contradiction: therefore I would put that question.

Sir *Christ. Musgrave.* You tell us, 'That a question for Supply will answer the first article of the king's Speech.' But I would have it answer the second article, 'upon the Revenue.' I suppose it has been considered, that the Revenue must be a Fund; therefore I would have it; for with the Revenue there must be a security. I would have the way prescribed,

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before you can do the thing. The king is of opinion, that it may be a Fund; therefore I would have that question.

Sir *John Lowther*. It is my private opinion, that, for the present, the Revenue may supply the present occasion, by security; but God forbid you should confine yourselves, now you are in a war! The king desires this testimony of your affections for all he has done for us. As for the Revenue, he cannot live without it; but for Supply for these wars, I hope you will not confine yourselves. After you have voted a Supply, you may then take into consideration the Fund of Credit, and you may make this addition for both their lives, and for so many years after as to be a Fund of Credit. I am no lawyer, but believe it may be done.

Mr. *Foley*. I cannot say any thing, till we know what the Revenue is, nor till we have an account of what has been spent of what we have already given. In three fourths of a year, the treasury has received 1,500,000*l*. besides what we gave; six millions were received last year and this. Now, what account have we of all this? Therefore I would give no Supply till an account be first brought to us. I do not think that a good argument to give, because the king goes into Ireland; nor convenient for the king to have an exchequer full, if the king goes into Ireland. I would give this king money, but not by a rule, because we have given other kings. I stand upon it, to have more reason from the accounts before we give Supply.

Sir *Henry Goodrick*. If gentlemen come not prepared to support the monarchy, and establish good understanding—But when the king says, 'He has that confidence in this house,' I see no difficulty but that every man is prepared in his thoughts. You are upon the question of 'settling the Revenue.' It is that the king sets his heart upon. You may know what the Revenue is, and then you may consider the Fund: your second question settles not that, unless by way of implication.

Sir *Edw. Seymour*. Your motion for Supply is by order; your debates are on several things; of Supply, and the Revenue; and that is part of the Supply. When I consider we are come so lately from giving Money in one parliament, I wonder how we come to leap into that now, unless you make one parliament to vie with another *ad infinitum*; but if this continue, you will make the ministers independent. We that have placed the king on the throne, are those that will keep him in it. I have always seen it here, that hasty Resolutions in parliament never produced good consequences for England. We are told of former kings who had this Revenue, that from such easy concessions came our miseries; and seeing we are so well redeemed from them, let us prevent them for the future. The safest results are from hence, rather than from abroad. To settle the Revenue must be a work of time, and not to be in that inequality, useless in war, and not useful in time of peace. Had you not time little enough last parliament to consider it, and will you do it in less now? You will make things precarious. We shall make an ill bargain, to support the Church to destroy the State, and the Constitution of that must support us. Let us come to that point of the Revenue that is for life, to enable the king to carry on the war. If for security, I would consider how much is necessary to carry on the war, and then to have the power in your own hands; you that have the game in your hands, to put it into those hands that played for king James, that now play for king William! As this the last parliament, so another governs this. The white horse rides one stage, the black another. Can the properties of England be safe, when you yourselves are made properties? As for the Revenue, I would leave it like wise men, not like a horse in the mire. Have your allies left you, because you did only settle it for one year? Now you have done like wise men, I would leave the state-trap of the Revenue behind you.

Sir *Henry Goodrick*. Let us come to an end of our stage. If you must have neither 'black horse nor white for our stage,' must we ride upon an ass? And if we do not supply the king, we shall ride an ass. You settle it only for the lives of your Deliverers.

Sir *John Lowther*. I am sensible of the Miscarriages; and whilst there are governments, there will be miscarriages, whilst men are men. I would be glad to see men help, and not embroil. I would not willingly inflame this matter: I would with all content retire to my cottage, from my part of employment, rather than live always in such diffidence that I must be armed with head-piece and buff-coat. The Chimney-Money act, and that of Navigation, were great concessions. With what pleasure can our prince expose himself to an unhealthful country, to subject his ministers to reflections! What can man do in this case? Since I am morally assured, there can be no preservation of the Protestant Religion, not one spot of ground, not one spot of land free from Popery, not only this nation is the security of it, but this prince; and when once this single person shall be removed, it is not all the world can secure it. If they hear some few mouths that reflect upon him and his government, how can he support us? I hope there is no weight in it. Similies, without explaining, signify nothing without a meaning. I hope his government will not be reflected on in this house.

Sir *Edw. Seymour*. I appeal if I reflected on the integrity of that gentleman (Lowther), or the sufficiency of this (Goodrick)? I care neither for 'the neighing of the horse,' nor 'the braying of the ass.' The safety of England will be better supported here, than by any other hands. This will appear by the change his majesty has made of his Counsellors. If we may not here deliver our advice, certainly that is a very evil one.

Mr. *Finch*. Before you put the question, there is something absolutely necessary for you to declare, viz. As you go on to settle the Re-

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venue, for the honour of the king, not to pass by one thing in relation to the hereditary Revenue. I remember the progress that question had in this house last parliament; it was a question, What did subsist, and what not? They were silent in that; they went only upon that for life. The next thing was a Bill to authorize the collection of it for a definite time. In that Bill there was a Clause, 'That the Revenue be collected for one year, and no longer:' And it was taken notice of, that the word 'no longer' would determine the Revenue; and, that the crown had no subsistence, was a question, whether it had any or no? (p. 138.) Still that point remains undetermined; and will you leave that to be a question still? You see that question left undecided; it is still one, whether it was hereditary in king Charles's and king James's time, and if that Revenue be vested in king and queen, in right of the crown of the realm, then it will be seen, that though new persons are on the throne, the ancient monarchy is still on the throne.

Mr. *Ettrick.* As for what is said of 'the uncertainty of a Fund for life,' you may have a clause for Credit, in case the king and queen die before the debt is paid. I am sorry to hear it talked, as if we had not minded our condition since we changed our king. If we had a popish king, I should be more careful than under the king I am. I cannot, in justice and gratitude, do less for him than his predecessors. In king Charles 1's time, the not settling the Revenue upon him for life drew on us all the mischiefs that followed.

Resolved, "That it is the opinion of this Committee, That a Supply be given to their majesties, to enable his majesty to prosecute the war against France, and for reducing of Ireland with speed and vigour." Which was agreed to by the house, nem. con.

Col. *Austen.* I thought you had taken your first step, that you might walk forward. Does any gentleman undertake the *quantum*, or that this should be a Supply? pray let some gentleman move a *quantum*.

Sir *Tho. Lee.* The first part of your question is not for leave to bring in a Bill for the Revenue: I only offer on the word 'Supply;' that business of the Revenue comes in naturally, and you may offer what words you will, when the question is stated.

Sir *John Guise.* I am persuaded, that those who advised the king to go into Ireland, knew how to give him money in 50 days time. If you will say more, than 'towards carrying on the War,' say so; but let us have to-morrow to consider of it, to answer it to our country.

Col. *Austen.* I shall never be afraid of a post, to bring news of what is done here. I am not for tricks of any sort. Your question is, at this time, not so. I may give Money for a Revenue; but I may, or may not, give my consent for two lives in it. Therefore put the question 'for a Revenue."

Sir *Wm. Williams.* When a question is unanimously carried, it is thought enough for one day. Some of the Revenue may be given for lives, and some for years; but none for such a time that the parliament may not come again; therefore leave the Chair.

March 28. The house again went into a grand committee, on the Supply.

Sir *Christ. Musgrave.* I move, that you would take the Revenue by parts, and consider what is annexed to the Crown, and what for lives. I speak frankly, what hereditary Revenue is to be settled upon the crown, and then come to the other parts of the Revenue: for instance, half the Excise is hereditary; declare that annexed to the crown, and then come to the other parts of the Revenue; likewise the Post-Office, the First-Fruits, and Tenths, something of the old Customs, with the Wine-Licences, &c.

Sir *John Lowther.* No man is more of Musgrave's opinion than myself: The motion I will make shall not preclude that. I renew the motion, to take into consideration again what you have done yesterday. Yesterday's arguments are a fresh obligation to the king; if any thing relates to our Properties or Religion, all are relative to this. I know no arguments of distrust of the king; nothing can prevail against it. There were jealousies of the last reign; but no instance can be given of a prince who has done so much for his people, for so short a time as he has been here. I move, that the Revenue may be settled for life.

Mr. *Ettrick.* It is very plain, that what is to be raised is for your service. The king's Revenue is 240,000*l.* less than his predecessors. As if only this question is, whether you will show that countenance to the government, as to support the king, or keep him as it were a board-wages; as if only by this question to fetter it with forms to surprize gentlemen. [He was taken down to order by sir Wm. Strickland.]

Mr. *Hampden.* 'The house to be shackled with forms' is a strange expression. I know that forms must be kept.

Sir *John Goodrick.* I know of no 'shackles,' but what keeps us to order and decency.

Mr. *Ettrick.* What I said was not reflecting upon any thing to-day, but what happened formerly. The question is very plain, Whether you will give as formerly, for life, or for 3 years?

Sir *John Thompson.* We have been told 'of putting the king to board-wages.' I do not aggravate the thing; but certainly we should know what we do, when we give away our money; but, that we may speak our minds freely, I think the Liberties of England are in that question. You were told yesterday, 'What you shall give on the Revenue cannot answer your end.' Certainly, nothing is more prejudicial to the king, when it is demonstrable it cannot answer the end for which you give it. When you give this Supply, it must be wiped off by you. The standing Revenue is so great, that it is your danger in time of peace. Either you must keep a Standing Army, or the frugality will ruin you. The Revenue will keep 30,000

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men. I should be loth to see so many foreigners in England in time of peace.

Earl of *Ranelagh*. The order is, 'To consider the Revenue.' The motion is, 'To consider the Revenue granted to king Charles and king James, that it may be granted to king William and queen Mary for their lives.' I find some gentlemen would know what this Revenue is, and what part to be granted to the king and queen. There is a Revenue for lives and years. The temporary Revenue is the imposition upon Wines and Brandy, &c. which determines in 1693. Sugars, &c. French and East India commodities determine at Midsummer. I would have it declared, 'That the Revenue, vested in the two last kings, is the Revenue of inheritance;' and have leave given to bring in a Bill to settle it.

Sir *John Lowther*. As near as I can, I will agree with the sense of every gentleman. If you will proceed in the method proposed, I am very well contented. I move, 'That the Revenue may be for the king and queen's lives, and the longest liver of them.'

Mr. *Sacheverell*. I move, 'That a Revenue may be settled on the Crown for time to come;' and I move, 'That what is now vested in the Crown may not be alienated from the crown.' Whenever 'tis granted away, always the subject must pay for it. Therefore, I desire gentlemen to consider if it once comes, whenever you grant away Impositions, granted by the subject to the crown, there is an end of your government. It will make it like the great men of Spain, they get all and the king nothing.

Sir *Christ. Musgrave*. The question is now, what the Revenue of the Crown is to be in time of war; 'tis otherwise in time of peace. Now we must make use of all the branches of the Revenue, now we are in war. I hope the king will not take it ill, if we settle the Revenue for years; otherwise, if it is not for years, as well as for lives, it cannot be good security. If you settle it for lives, only, and not for years, it cannot be a Fund; if for both, pray declare your sense. I know not if 3 years, the number moved for, will be security or not; and if three millions will be found without a prospect of some time, moneyed men may lend, who understand security. That you may not be for a time uncertain, I move you to grant the Revenue for 4 years.

Mr. *Ettrick*. 'Tis something of a harsh proposition, the Revenue for lives and years too. I look upon the hereditary Revenue to be so far a Fund as for a present supply of Money. If we know what money is wanting, we may the better form the sum. I have heard of 'a million' wanting. You may make, in a clause of Credit, that no contingency may be in their lives to the lender of the money. I think we ought to have as much respect for their present majesties as the last parliament had. They proceeded so far as to move the Revenue to be settled for their lives.

Sir *John Guise*. Upon a supposition of what was done last session, I would have your Books searched before you go on. I find this king and queen extremely beholden to some people that would settle the Revenue for lives. In the king's Speech there is such a proposition, that, if we can find no other way, the Revenue then is to be a Fund. I should think the Revenue a very ordinary present to the king, so incumbered, by advices, from other persons, not from hence. I would take time to present the king with a free Gift, and worthy of him to receive. Then your business is to support the War. Do you intend this shall be out of the Revenue? If they intend no other Supply than the Revenue for the present or any other, let them speak. I have heard, that they who lend Money love to have it in their power once in six months. I would not dispose of the Revenue farther than becomes a prudent man, who may answer it to his country, 'Tis said, 'Put no distrust on the king;' but I would not have all ill management laid on the king, which ought to be laid on the ministers. Here have been particular grumblings against persons' ill management; and since, now the Revenue is in your hands, you cannot know these persons, how will you know them that have done amiss, when the Revenue is out of your hands? I think it ought not to reflect on any particular prince, when others have the keeping of his ears. I would have a Fund of Credit for 4 years, and no longer.

Col. *Austen*. I am against the question, for the king and queen's sake. I am against granting the Revenue for lives, for what the king (that now is) has declared in his Declaration, when prince. One of his businesses was, to secure us that no successor be able to bring us again into our misfortunes. The great mischief being the Revenue for lives, you will never do good in an ill prince's time—I am sure you will never tell him that he is an ill one. A parliament will secure you from other ill persons, as well as ill kings; I mean, the ministers. Granting it for life will prevent any ill ministers from being called in question, and you can never reach them. I hope the king will be as rich at the end of this time 4 years, as if he had the revenue for life.

Sir *Joseph Williamson*. It will certainly be for the king's service, that people may see themselves out of fear of not meeting the king frequently in parliament. In the close, I shall agree that the remaining part of the Excise be settled for life. The necessary expences of the crown must be supported, or else we fall—You will not at all be alarmed with the defect of a parliament.—That is the thing; the king's necessity will bring the king to the people, and the people to the king. I will only add this, besides growing extraordinary unforeseen accidents, though I hope we shall be soon out of this costly war. You were told yesterday, 'That the Revenue was clogged, and can bear nothing;'—and what you must now give will still necessitate parliaments—As, on the one hand, I would not give all for life, so I am for a reasonable security. If half the Excise be for

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life, there will remain still a Fund for Credit, and yet be secured from the common fear of wants of parliament.

Mr. *Sacheverell.* Before this question be put, of lives, I desire a little satisfaction, whether you intend to have any Fund of Credit, if you take away all indubitable security? What fund can you have in the Customs in time of war? They that had no regard to the last parliament, will have as little regard to you, when you are gone. You have settled the hereditary Revenue; now, what Fund of Credit have you on contingency of the Customs? Plainly, will you have a Fund of Credit or not? What can be borrowed on the Customs, suppose them 400,000*l.* to this year and the next; what sum can you propound upon this credit? Can any man believe they will lend? 400,000*l.* is all you can borrow in a year, and scarce that; few will lend upon the utmost value. I know no way of certainty but to leave the king 600,000*l.* an entire Fund of Credit to borrow upon. But if you leave the thing indefinite, you will have, I believe, little or no use of a parliament for the future.

Resolved, "1. That it is the opinion of this committee, that the hereditary Revenues, which the late king James 2. was, the 10th of Dec. 1688 entitled to, became and are vested in their present majesties, king William and queen Mary, in right of the crown of England, except the late Revenue arising by Fire-Hearths and Stoves. 2. That the house be moved for leave to bring in a Bill to declare, that the said Revenues are so vested; and that therein provision be made, that they shall not be aliened from the crown, nor chargeable with any Gift or Grant to be made for the future. 3. That the house be moved for leave to bring in a Bill for the settling that moiety of the Excise, which was granted to the late king Charles 2. and king James 2. or either of them, for their lives, upon their present majesties for their lives, and the life of the longest liver of them; with a clause to enable their majesties to make the said Revenue a security for raising money towards a Supply, not exceeding the sum of . 4. That the house be moved for leave to bring in a Bill to grant to their present majesties for the term of 4 years, from Christmas next, the Customs which were granted to the late king Charles 2. and king James 2. for their lives; with a Clause to enable their majesties to make the said Revenue a security for raising money towards a Supply, not exceeding the sum of ."*—Which were all agreed to by the house.

Debate on the Supply.] March 31. The house went into a grand committee on the Supply.

Sir *John Lowther.* Part of your great work is over. You have voted the Revenue to king William and queen Mary. I doubt not but to the satisfaction of all men, at least, good men. The next thing is to provide for your own security. This is a great task, a great work. No government can be supported, but within these walls. I am sorry to tell you, that the king is at an extraordinary charge, never felt before. I have known civil wars, and wars in Ireland, but never with so potent a prince as the French king. You have but part of Ireland in your hands, [and then giving an Account of the defects in the Customs, &c. towards the great Charge, concludes] There can be no Army, but upon free quarter, nor Ships, but in harbour, if Money be not taken up.

Sir *Charles Sedley.** Mr. Speaker; we have provided for the Army; we have provided for the Navy: and now, at last, a new reckoning is brought us, we must likewise provide for the Lists. Truly, Mr. Speaker, it is a sad reflection, that some men should wallow in wealth and places, whilst others pay away, in taxes, the fourth part of their revenue, for the support of the same government. We are not upon equal terms, for his majesty's service: the Courtiers and Great Officers charge, as it were, in armour: they feel not the Taxes, by reason of their places, whilst the country gentlemen are shot through and through by them. The king is pleased to lay his Wants before us, and, I am confident, expects our advice upon it: we ought therefore to tell him what Pensions are too great; what Places may be extinguished, during the time of the War, and public calamity. His majesty sees nothing but coaches and six, and great tables, and therefore cannot imagine the want and misery of the rest of his subjects: he is a brave and generous prince, but he is a young king, encompassed and hemmed in by a company of crafty old courtiers. To say no more, some have Places of 3000*l.* some

* "But though these Votes were carried without a division, they were not carried without a debate: some thought they were too comprehensive, and some that they were too limited. The latter were for having the Customs for life, as well as the Excise: bishop Burnet says, 'This was much pressed; but,' continues he, 'it was taken up as a general maxim, that the Revenue for a certain and a short term, was the best security that the nation could have for frequent parliaments.' The bishop adds, 'The king did not like this, he said to myself, Why should they entertain a jealousy of him, who came to save their religion and liberties, when they trusted king James so much, who intended to destroy both? I answered, They were not jealous of him, but of those who might succeed him: and if he would accept the gift for a term of years, and settle the precedent, he would be reckoned the Deliverer of succeeding ages, as well as the present.'" Ralph.

* Somers Tracts, 1 coll. vol. ii. p. 487. Sir Charles was one of the most remarkable wits of king Charles 2d's reign, and father to the countess of Dorchester, who was mistress to king James 2, which occasioned him, after voting for the prince of Orange's succeeding to the crown, at the Revolution, merrily to say, 'That, in return for king James's having made his daughter a countess, he had given his Vote to make his daughter a queen.'

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of 6000*l.* and others of 8600*l.* per annum, and I am told, the Commissioners of the Treasury have 1600*l.* per annum a-piece. Certainly, public Pensions, whatever they have been formerly, are much too great for the present want and calamity that reigns every where else: and it is a scandal, that a government so sick at heart, as ours is, should look so well in the face. We must save the king Money wherever we can, for I am afraid the War is too great for our purses, if things be not managed with all imaginable thrift. When the people of England see all things are saved, that can be saved; that there are no exorbitant Pensions, nor unnecessary Salaries, and all this applied to the use to which they are given; we shall give, and they shall pay whatever his majesty can want, to secure the Protestant religion, and to keep out the king of France, and king James too; whom, by the way, I have not heard named this session; whether out of fear, discretion, or respect, I cannot tell. I conclude, Mr. Speaker, let us save the king what we can, and then let us proceed to give what we are able.

Sir *Edw. Seymour.* If I thought your enquiry would bring you to your end, I should be for it; but I would rather close with the other motion, of what is most necessary to be provided for. The stress of the question lies to give the Revenue for a Fund, and when given, no security. If you begin with enquiries after Mismanagements, and pass them over slightly, you establish them, and will never have a true one. Let us prevent them for the future. But when the Fleet is employed in every man's business but ours, no wonder that Ireland miscarry. Let us know what money remains of what was given the last parliament, and give what comes short of that sum for present Supply.

Sir *John Guise.* I must take it for granted, that, upon the dissolution of the last parliament, things were well weighed. What was wanting of the sum before? When a way was found out to supply the king, to cut all that off at a stroke by a prorogation! Who dares be the man, that will avow it?

Sir *Christ. Musgrave.* I must believe, that what is requisite for carrying on the War has been weighed before we came hither. Was it not the intention, that granting the Revenue, and settling it, was a Supply? If nobody will give us an Account, either borrow what you can, or the house must order it, as in all your bills you have borrowing clauses—Will you leave it to the king at large to borrow, or limit such a sum, not to exceed such a sum? Suppose you give credit 'not to exceed 500,000*l.*'

Sir *John Lowther.* If the meaning be a power of borrowing 500,000*l.* only, and no other Supply, I would ask that member, whether he will answer that to his country? And, as it is uncertain whether it can be borrowed, how can he go into his country, and the Army not paid, and the Fleet in harbour? I dare not undertake it. I am in the king's service, but have a fortune to support my condition. I can obey commands, but am not in a post to give counsel. Let the matter be how it will, if religion and laws will be safe, under such a motion; I am mistaken, unless other men have other prospects, than I have; and do not say but you are warned of the consequence.

Col. *Austen.* We are come into necessity and pressure of times for Money. Is it the fault of the commons of England? Were they the cause of that necessity? It will be found, that you have done your parts. The advice was very bold, and things were taken care for somewhere else, to send the parliament down. None tell us what will serve the king, and those near him yet do not tell us what is required.

Sir *Christ. Musgrave.* I dare not love the name of 'undertaker,' so as to ruin my nation. I know not what Lowther means by 'a Prospect:' I have none but the support of monarchy, and the nation. We have settled the Revenue, and that was called 'Supply!' I said, 'it ought to be at the peril of any body, that undertakes what to borrow.' The necessity is not from us—We have no sums told us, and when we name them, we are reproached for it.

Sir *Tho. Lee.* The farther consideration of credit is come to 500,000*l.* and no more. I did not advise that the Revenue be charged, nor to run upon borrowing, but that every year might defray the charge. If it will not answer your end by security, it is as good as nothing at all. Still the king tells you, if no other way be to be found, then to charge the Revenue. If you go on with the War, and the whole be anticipated, you will make your enemies far from having inclination to peace. If there be not towards 500,000*l.* to pay off Seamen at Michaelmas, when they come up, you may possibly have 200,000*l.* more to pay. I believe, at the end of September, when they come in, 500,000*l.* will not pay Seamens wages. What I say is only a short hint to consider how things are.

Sir *Francis Blake.* They prorogued us, and then dissolved us; surely they knew where Money was to be had. It is so hot from the mint, that it has dropped through our hats.

Sir *Henry Goodrick.* It is unhappy, that we have looked so far into things, as to have lost ourselves in the debate in reflections. The pressure is so great, that the Army and Ordnance, the safety and honour of the king's person, every thing that is dear to us, I fear, must be laid aside. Things have been fairly and candidly managed—I am an accomptant for great sums, and those about the king are willing to inform you—No man doubts the preservation of the public, but the way we dispute of. It is extremely pressed in the house, as if some slight of hand was in the last debate. There is nothing in the king's Speech, but what he will make good, as to the Revenue; but the question is, as to the *quantum*; so much as will bear the Charge goes towards it, but you are told 'it will come short,' it is a great and terrible sum at first to name, 'two millions;' but if this be exclusive of all other things, the very Ordnance comes to that sum. I do not verily know,

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that you cannot put the Ordnance into its ancient course without 300,000*l.* Do not let this preclude all other Supply.

Sir *John Guise.* After having heard some reflections on Musgrave's motion, I am concerned for the honour of the house; necessities you are brought to, and these not your own fault, and then to be asked, 'Whether we can answer this to our country?' But the question I would ask, is, 'How came the French to be landed in Ireland, and your Militia not settled in England?' I cannot answer that—Whether you will fill up the blanks, or put the sum moved, is the question?

Sir *John Lowther.* I hope, that, in this, I am rather transported with zeal for my country, than any particular reflections on any body. If I did not misunderstand the gentleman, he said, 'he hoped we should not grant two Supplies in one session.' I appeal, whether there is not a hazard of the security of the nation by it? I know not that the Militia of the kingdom is not settled, though I know not that it is settled; for orders were sent down to have them in readiness. When I said, 'Musgrave might have some other prospect,' I meant, that it is impossible but that this nation should be ruined, if this be not a Supply.

Sir *Tho. Clarges.* These Accounts of the Revenue are a little puzzling. It is a hard matter to be clear in it, in a committee of the whole house (and so reckons up what has been given, &c. and what is in Arrear, &c.) Certainly there has been great mismanagement, whether by unskilfulness of the managers, or otherwise, which has some resemblance to a private family: I must live, and have meat, drink, and cloaths: I should follow that, and postpone all other occasions. The fleet, army, and ordnance are appendixes—They should have minded those things in which all our safety is concerned, and have applied to that. (Perhaps it is so, but here are great outcries.) I think that 20,000 men, considering our alliance with Holland, are as many as we need. As to the greatest reckonings we can make, we know it was said 36,000 men, and now they say, 'Thank God, we have 16,000.' I have had the honour to be in the army, and have seen the establishment for 80,000*l.* per mensem, for 40,000 foot, and 10,000 horse. God forbid we should cut the pattern too narrow! I would have all provided against. Enemies we have without, and enemies within. I cannot tell what to advise, but I would have it proposed, what sum will defend us till we meet again, and what they have towards it. Before we come to a sum, let the hon. persons explain what condition we are in, and what is necessary now. It is the common talk of the town, that the great occasion of these diminutions is ill management—Men cannot know these things by inspiration—Land and tide-waiters brag what they can smuggle and cheat—farmers were managers, but after they had made up their own pack, they cared not what become of the rest. Formerly, great care was taken, that all the officers of England were inspected. I am weary of finding fault. For the present, I move for what sum shall be necessary, and what we can have towards this out of the Revenue.

Sir *R. Temple.* The Customs, in time of peace, never rise to more than 600,000*l.* per annum. Michaelmas was greater than after; they heaped in great quantities of goods by prospect of a war. I believe they are not now 400,000*l.* per annum.

Mr. *Paul Foley.* It concerns us to give the king a Supply, but it concerns us as much not to give more than is necessary. We have strange Accounts of the Revenue (and so reckons up the Account given in by sir John Lowther). I hope our case is not so bad as is represented, and that we are not at a loss for so much money as is spoken of. Let us have a fair Account. The lowest Account amounts to more than what the Navy and Army want; but if not laid out upon the Army and Fleet, surely there is more reason to have things before us. I move, "That the house may be moved, that an Account be brought in of the Money, &c. and how disbursed." [To proceed the next day.]

April 1. In a grand committee, on the Supply,

Mr. *Hampden.* I hope this day will end to the satisfaction of every gentleman. The great end of this day, is the preservation of the government, and keeping it from ruin. I having the honour to serve the king in his Revenue, (as chancellor of the exchequer,) it is from thence the measures of the house are to be taken. If you do not supply the king, you will fall into the misfortune of tradesmen, to shut up their shops, and to make what we have omitted amongst our lamentations. There was a great debate yesterday about Accounts, but this I will say, that it is the king's desire, and all I have the honour to serve with, that you should know them. I have an Abstract of the Account, which I hope will give satisfaction. I have sent for all the auditors. I wish you would take the Account I have, and I say it is a true Account, and will be justified; three-fourths of it are ready to be justified by all the vouchers, to Christmas; but take the Account your own way, and direct your way. A man of better understanding than I may not understand my trade, but it may be explained to him by the officers, who shall attend upon any gentleman that please. Let it not run away, that the money is mis-spent; it is not so embarrassed as gentlemen have spoken of. Gentlemen say, 'What should we give Money for, before we know how it shall be spent?' But the true intent is to satisfy; and, though you cannot take the Accounts now, do it at your leisure in recess of parliament. Take them, and they shall be opened and explained to you. I blame nobody for making these objections; they do like good stewards for their country. If any officer be to blame, let him be named. Whether Money has been well employed, or no, I cannot answer that; but let not that be an objection. Name any body to enquire into the ill

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usage; but, as for the great charge of military affairs, I know nothing of that; but if you think persons undermine the government, and waste the treasury, you are to give the king counsel as well as money. This way of communication is the way to end all differences and jealousies, amongst friends. I have ever had a great reverence for the house of commons; so I have lived, and so I shall die, a faithful commoner of England. But, after all, will you support the government? I know you will support it. You have sent the king your Vote, and carried it solemnly; but, on the other side, if these objections be any thing, your government will fall of itself: If you say, you will support it, do support it. If any objection of Mismanagement remain, remove them that have been faulty. If you let it lie in suspense, none of these objections will save the government from falling. I humbly move, and desire all gentlemen to consider, that, seeing the calamities that will attend the loss of the government, which every gentleman may figure to himself—What will it avail to say, that you are cozened, and, if you give more, you shall be cozened? But are you the better for saving your Money, if Ireland be lost, perhaps England too? Popery, French, and Irish, to dwell among you, and govern you; and saving the Taxes will be but cold comfort at last, to say, 'I have saved 100*l.* in taxes, and perhaps my estate will be sequestered, or worse; I must either renounce my religion, or lose it.' What I aim at is this, that Money must be given, and speedily given, and by no way but by a Fund; and not any of the consequences, but you may prevent afterwards; else you will be too late, and have another distemper upon you to cure. When you go into a committee, do it speedily; and, whatever Credit, give it a sound Credit. You will be here suddenly again, and may enquire into the management.

Sir *John Lowther*. I doubt not but gentlemen take into consideration the condition of their bleeding country. Under Heaven, there can be no assistance but from this house. I would to God, gentlemen would believe that some men intend sincerely, and tell you truth! As for the profits of my employment, they have not paid my house-rent, and I care not if they ever do more; and if my service be acceptable, I am more than over-rewarded. Gentlemen that have ventured their lives and estates, as I have done, upon a change, must suffer in the common calamity. There is no Money in the treasury, except the appropriated Money. I know not of one shilling in the treasury. Upon stating your Expences as near as I can, I freely own the establishment is greater than the nation can bear. This unhappiness might have been prevented by the last house of commons, if you had represented that the nation could not bear the establishment. I presume we did not think it so, and would have supplied it. I am of opinion, that it is too great an expence; but I believe no gentleman has retrenched one dish at his table, or one servant in his family. (Then he gave an account of the Charge of the Navy.) So formidable a sum is needful, that I dare not mention it; but I hope gentlemen will be so kind, in their advice, as to direct us in the retrenching, that they may approve of it when you meet next. Deductions must be allowed for all things, as Deserters, false Musters, &c. and I will hope that Forfeitures may do a great deal in Ireland; and the Fleet is not paid till they come home; but, in the mean time, stores must be supplied. I hope gentlemen, therefore, will assist in the retrenchments. I believe, in any country, they would first consider what must be necessary for their own preservation. In my poor opinion, I think it impossible to carry on the War without 1,500,000*l.* before Michaelmas.

Col. *Granville*. I have ever thought that Money-motions came best from rich mouths. The dangers have been well stated, and if they had not, they would have spoken for themselves; and I hope this wise assembly will get out of them, as well as enquire how they came into them. If there are any discontents, let us know what they are angry with, and with whom, and not complain in generals. I move, 'That we may farther supply the king with Credit.'

Sir *John Thompson*. I look upon it, that, in the last year's proceedings, the parliament did believe themselves ill used in the management. They were drawing an Address to the king; and when they had given their money, they were sent away; and so may this. As to what is said by Lowther, 'Why did we not complain the last parliament?' there was complaint; and the Lists did not appear to be 50,000 men; and for them was computed 1,400,000*l.* Now it comes in 1,500,000*l.* It is strange it should be so vast a debt, when we have supplied all that was demanded! That with the Revenue makes three millions. All the Navy did not go out in a day; that, and the other things, will make a considerable deduction. We shall never come to a right state of things, till we know what Forces we have; for still, the more you give, the more you are in debt: and I would ask those who tell you, 'That half Ireland is lost, and England may be too,' why was not Ireland secured first?

Sir *Rob. Cotton*. No gentleman here but is sensible of the treasure given, and the little effects of it. It is reason to consider, not what we might have been, but what we are. The only question before you is, to consider how this Supply may be raised, and what Fund; therefore, first consider the State of the Revenue, and what may be laid upon it for a Fund.

Col. *Austen*. I think two things are under consideration; Supply, and, which is as necessary, that it go to right purposes. If under management of those who have led you out of the way, what probable reason can be given? If there be necessity, there is as great necessity to see it well employed. I would not ask account of actions last year, but I wish we might have a prospect how they will be managed better.

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Mr. Comptroller *Wharton*. Every body here, I believe, has the same zeal to serve the king, and the government. I move, that you will hold us to one question, 'What is necessary to carry on the War?' I could not know what to move, but from a gentleman (Lowther) whose calculation I believe to be true. I confess, it is a great sum proposed, and since it must be raised, 1,500,000*l.* has been named, it has not been seconded, but I do. It is a great sum I must confess, but I know not how it can be less.

Sir *Christ. Musgrave*. You state that right which was named; but I will put you in mind, that there was a sum named under the gallery, 700,000*l.* and, by order, the least sum is to be put first. I would gladly know, when you have voted it, how it must be raised? I know no other way but by the Revenue, or Land-Tax. Land is already charged till Christmas. If you charge it with a million more, how long will that be, and we expect at Michaelmas another debt, and you will be put to new methods of raising, viz. by home excise. You are told, and I find it is taken for granted, 'That the expence of the War is greater than the nation can bear.' I know it is not seasonable now to take notice of mismanagement, by an Address; but, if you take no notice at all, you confirm what was omitted the last parliament. Do you intend that artificers shall have assignments for their debts, and pay 7 per cent. interest? and then consider how interest eats out; and, besides, by great rates for wares; and in this method, who knows how to support the government? Therefore, before you grant the money, consider the ways of raising it.

Sir *Josh. Williamson*. The gentleman under the gallery, speaking of the Revenue, seemed to say, 'That the Revenue might bear it;' but made no direct motion. 1,400,000*l.* after so much money given, is a great sum; but, whatever the sum, it is to make all the rest good, our religion and properties, &c. Far be it from us to think that sum will undo us. He that you have to do with, will be brought to reason sooner by this house, than by all the money you can raise. This is a great sum, and it is hard to lay it, yet it is not impossible. If that of the Revenue had been a little better opened, you might have gone on more easily: I must give all my help to that question moved. Perhaps I should not refuse to give my consent to this; but it has been scarce seen that so much expence has brought so little honour and advantage to the nation. I look back with astonishment! I have served near the throne, where there have been cross biasses in affairs; but when we have a prince who will think it for his service to enquire into managements, I hope they will be put in such a way that we shall not do it again. Put the enquiry into some way, and when you come back, go through it. As to my way of absolving myself in my own duty, I shall give my affirmative to the question of 700,000*l.*

Mr. *Ettrick*. I would give what will do the work: If not done this year, it will not be the next. I propose 1,200,000*l.*

Sir *John Guise*. We see the word 'towards' is come to something more. You are now come to a sum of Money proposed. I speak plainly: If there be any gentleman who has denied today, that things have been driven to a necessity, I'll tell you from whence this Grievance does proceed; that people do not own the counsels they have given; the visible part of the privy council. Is any about the king that had a hand in the Charters? If by that way our misfortunes have come, it ought to be rectified. In queen Elizabeth's time, no man was ashamed to own his own counsels; she had the privy council's advice and consent in all things; and if we give to supply what Mismanagements have cost us, we do our duty to our country.

Sir *W. L. Gower*. I hope we shall not only empty their pockets that have cheated us, but squeeze their veins of their blood, for the ill things they have done. I move for the greatest sum.

Sir *John Thompson*. A million is as much as you can raise, give what you will; therefore I move for it.

Sir *Tho. Lee*. I agree with the gentleman that moved for a million; but I would be satisfied how it can answer the occasion; that is all the difficulty with me. Land is already taxed largely. Don't give less, that you may live upon credit. I would not have the whole security of England be at the pleasure of a few men, whom you borrow from. The Army is to be paid monthly, and that will take up all the first money: the poor seamen will be unpaid. Parliaments do not desire to come much before Michaelmas.

The committee divided, and 'the million,' passed in the negative.

Resolved, "That it is the opinion of this committee, that a sum not exceeding 1,200,000*l.* be the Supply to be given to their majesties, for the public occasions, between this and Michaelmas, in prosecuting the War against France, and reducing of Ireland with speed and vigour."—Which was agreed to by the house.

April 2. Sir W. Strickland moves for instructions to the committee, 'That the Supply be not raised upon Land Tax.'

Col. *Austen*, on Mr. Hampden's setting forth the necessity of Supply, said, You have now two necessities, Money and Land; and give me leave to offer a third, the people's living. He that does not faithfully advise the king, is not a good subject.

Sir *Henry Goodrick*. I am of opinion, and do not doubt, but what has been said is true. All new experiments are uncertain. This only I desire, before we enter into a hasty Resolution, to propose some ways to raise this money. The gentleman that moved it, I believe, can tell you ways; therefore I beseech you, at least, to weigh this, and not, by a vote, to expose the nation to ruin. Before you put such a question, pray let us debate it.

Sir *Tho. Lee*. I take it, the debate is upon 'Instructions to the committee, that no part of

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the Supply shall be upon Land.' I think it irregular in the house; but, if moved at the committee, it will be as strong as in the house. In the house you are confined to debate, not as in a committee. I remember, in the Long Parliament, a great sum was to be raised, and Home Excise was proposed; those against Land-Tax would have had a negative—You have so much money to raise; you have said you will do it. I know no way considerable but home excise. I assure you, I am not for land-tax, which is absolutely destructive to you. You must keep yourselves in a condition to raise it upon land hereafter. I am neither for a land tax, nor a 12*d.* Subsidy. I speak plainly; if you bring this course of a negative into parliament, the practice will be extremely inconvenient.

Sir *Henry Goodrick.* I have declared myself all along; I will deal fairly: I think the Revenue ought to bear a great share of this; but to lay a negative upon land, customs, or excise, there is an equal latitude upon all these to put a negative. You were told of 'three necessities' from the bar; perhaps the same necessity may be on other things; and, at last, necessity upon nothing. If this pass once in the negative, you lay such a baffle upon the committee, that they cannot get through it.

Mr. Solicitor *Somers.* The business of parliament is best done, by preserving methods of parliament. Departing from what is always considered of, at a committee, may be very prejudicial; the variety of opinions you have heard, requires debate. That being the case, and method of parliament, pray leave the chair.

Sir *John Guise.* Suppose you should lay this tax upon land, you know not the success of the war, and would you have no resort to make new recruit of money? Can you answer this to your country? It looks to me as an extremity, the utmost shock, and the way to bring in king James, if you go first to the dernier resort.

Sir *Robert Cotton.* Nothing but great necessity yesterday brought us to vote so great a sum of money, but have a care lest we put ourselves on greater necessity. We have an army in England, as well as in Ireland, and I know not whether we are safe without such a guard, and home excise to maintain that army. These things, so natural, we may expect may follow. I doubt not but the kingdom of England may raise money without burdening land. I hope gentlemen are so disposed, as not to be willing to bring the nation into necessity of such fatal consequences. Pray put the question. Let us keep England, whatever becomes of Ireland.

Sir *Robert Rich.* You have been upon a long debate, upon a negative upon land-tax. I would willingly go into a committee freely, but I own I am against all home-excises.

Mr. *Swynfin.* As to the arguments against land-tax, I have been here the best part of 20 years, and all the projects would never do. The way of our ancestors has always been upon land, and they abhorred excise, and all other projects. I wish we prove wiser than they. We had a war with the Dutch, as now we have with the French, and it was carried on no other way but by land-tax. I am not for saving our lands to enslave our persons by excise. You have pitched upon a Fund, and must have a security to raise it. If there should be a miscarriage in Ireland, it will be laid upon the house by the managers of that war. Let them have no pretence to lay the blame upon this house. I would fain see the tax laid upon something less vexatious, and that will not, in the end, come upon land. If you find other proposals less grievous to the people, you will deal best with yourselves, and the business is to leave it to the committee.

Mr. *Harcourt.** If you give the tax on land now, I fear you will lose as many men as you give pounds. The goodness of the prince, and his greatness too, is shown by the easiness of the government.

Resolved, That it be an Instruction to the committee, That the Supply to be given to their majesties be not laid upon Land, without leave from the house.

The house then went into a grand committee.

Sir *Edw. Seymour.* I cannot but take notice, that we are come into an extraordinary method of argument. The only answer to it is, 'If those without doors had done their parts as well as they within, these Miscarriages had never been.' I was one of those for the lesser sum, as it might have been raised out of the Revenue. The king's resolution for going into Ireland was taken before any thought of enabling him, in parliament, in all respects that would enable him to do it. Some gentlemen tell us, 'The Revenue will not prove sufficient security, because those without doors dare not lend upon it.' But pray tell me, if I ask those without doors, will they not tell me, the land is charged already? The affections of the people are not to be hazarded. People I see already mention 'the goodness of their princes, and their greatness too, by the easiness of their government.' We are to secure ourselves from the whole, Popery, Ireland, and the French king. I could have been glad that your sums might come up to the whole Revenue, but, with that caution, if it does not secure it, to make it good when you come again. All I drive at, is, to go on with such a consideration, in what we give, as not to lose what we have already given by land-tax. Those persons that serve you in commodities, will think themselves better secured by the Revenue in the Exchequer, that every one in his order is duly paid.

* Son of sir Philip Harcourt, and afterwards distinguished by his eminence at the bar. In 1702, he was appointed Solicitor-General, and in 1707, Attorney-General to queen Anne, which office he quitted by a voluntary surrender a few months after, but was recalled to it in 1710; and was the same year made Lord Keeper of the Great Seal, and created lord Harcourt. In 1712, he was declared Lord Chancellor, and in 1721, he was created a viscount. He died in 1727.

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I think it not intended to put this money for Ireland in the king's pocket; so give the best funds and security known by experience. I would not take care, whether the officers can bear it in the Civil List; they ought to pay their part: though Lowther tells you, 'He has not got to pay his house-rent.' If people pay as much as they are worth, they will think themselves as easy under any government as this.

Mr. *Godolphin.** It seems to be the general disposition of the house, that the Revenue be a Fund. The question is the *Quantum*, how much the Revenue is a Fund for. You voted, the last parliament, two millions with the Revenue, for carrying on the war; which came short. Therefore I hope 1,400,000*l.* besides the Revenue—fill up the Temporary Excise not exceeding 300,000*l.*

Resolved, "That it is the opinion of this committee, that, towards the Supply to be given to their majesties for prosecuting the War against France, and for reducing of Ireland, with speed and vigour, his majesty be enabled, by a Clause in the Bill or Bills, for settling the Revenue, to raise a Credit for the sum of one million, upon the Revenue." Which was agreed to by the house, with the Amendment of 'ten hundred thousand pounds,' instead of 'one million.'

April 3. The house went into a grand committee, on the Supply.

Col. *Birch.* I cannot easily swallow how we are brought into this necessity of Money. I shall touch it very tenderly. Here is another year lost; but let us do what we can. Last year, by God's blessing, with hay and oats, you might have done your work. But it is more reasonable to provide the money, than talk of things now; and nothing was so unseasonable as the prorogation of the last parliament; that undid your business, and not only lost opportunity, but set you a year backward. I am not only for the Money, but to have it ready money. You might have done it in a seasonable time, and now you might do it in an unseasonable: you will find it on your Books the last session proposed, 'Every alehouse to pay 10*s.* and brandy-cellar 20*s.*' Let it be read; it is in lieu of a licence from the Justice, and I appeal, if the poorest will leave off the trade for it? Not five in England will. It is now the time of year for licensing; this will signify little to the people; and pray entertain no more motions till this be off your hands.

Sir *Charles Sedley.* We stand as if we had one foot in one boat and another in another. Let us serve them in Ireland as they have served us, and worse, if you will. I would not put the present service upon dispute, or contingency; but, however, seize their lands here, that they may no longer go into Ireland to support the war.

Mr. *Harbord.* Oliver took other steps to reduce Ireland than we; he followed the advice given him, in the confiscation of estates, of the estates of all against him; which saved him a great sum. It will not only ease this nation, but people Ireland with English. In the two last kings reigns, there were as much pains taken to destroy the Protestant interest, as in Oliver's time to support it. You will not only have the advantage to the payment of the officers, but raise considerable sums. They have wholly divorced themselves from the kingdom of England, and taken away the Act of Settlement relating to Ireland, both Settlement and Dependence, and I would have them attainted.

Resolved, "That it is the opinion of this committee, that, for the raising of the sum of 200,000*l.* being the residue of the 1,200,000*l.* to be given to their majesties, the house be moved for leave to bring in a Bill for a Poll." Which, being reported to the house, was agreed to.*

Proceedings in the House of Lords on the Bill of Recognition.†] April 5. On the 26th

* Youngest brother to lord Godolphin, and one of the Commissioners of the Customs. He died in 1720.

* "These were the only public measures in which the distinction of parties was less obvious and regular. Other subjects of debate, in both houses, though often important to national interest, were evidently blended with the views of parties, and the issue of them afforded an exact criterion of their comparative strength, and of their various success. Accommodated to their peculiar circumstances, were the different plans and weapons with which they waged their political warfare. The Whigs, inferior in numbers, and declining in the favour of the court, relied chiefly upon the fortune of incidents, and endeavoured, by stratagem or surprise, to turn their enemies out of the strong holds of power: the Tories, confiding in the strength of numbers, and elated with recent victory, openly proclaimed the attacks which they intended, and seemed to wish, not only to conquer, but to affront and humble their antagonists. Thus the Whigs, under the cover of zeal for the new settlement, introduced such Bills into parliament, as reduced their opponents to the necessity, either of contradicting the principles they had formerly maintained, or of defending them at the hazard of losing the favour of the court. The latter, irritated by attacks from which they did not escape unhurt, availed themselves of their superiority to carry many resolutions and votes, evidently contrived to mortify their opponents." Somerville.

† "The first great debate arose in the house of lords, upon a bill that was brought in, acknowledging the king and queen to be their rightful and lawful sovereigns, and declaring all the acts of the Convention-Parliament to be good and valid. The first part passed with little contradiction, though some excepted to the words 'rightful', and 'lawful,' as not at all necessary. But the other article, declaring the acts of the last parliament to be good and valid, bore a long

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of March a Bill was brought into the house of lords, 'For declaring the Acts of the late parliament to be of full force and effect by the laws of this realm, and for recognizing their now majesties king William and queen Mary to be, by the laws of the realm, our rightful and lawful liege lord and lady king and queen of these realms.' This day a report was made from the Committee to the whole house of the Amendments upon the said Bill, viz. In the second sheet in the first line, after 'declared' they have added 'adjudged,' and in the twelfth line they have left out the word 'adjudged' and they desired the concurrence of the house therein.—Then the question was put, Whether this house agrees with the committee in this report? It was resolved in the negative, Contents 30. Not content 36.

Protests thereon.] Leave having been given to any lords to enter their Dissents, if the question was carried in the negative, we whose names are hereafter written do enter our Dissents for these Reasons following:

1. "Because there appears to us no reason to doubt of the validity of the last parliament, the great objection insisted upon being the want of writs of summons, which we take to be fully answered by the state the nation was in at that time, which made that form impossible, such exigencies of affairs having been always looked upon by our ancestors (however careful of parliamentary forms) to be a sufficient reason to allow the authority of parliament, notwithstanding the same, or other defects in point of form; as the parliament which set Henry 1. and king Stephen on the throne; the parliament held 28 Edw. 1. the parliament summoned by the prince of Wales 20 Edw. 2. the parliament summoned 23 R. 2. the parliament held 1 Henry 6. and the parliament held 28 Henry 6. the acts of which parliaments have been held for law. 2. Because the rejecting this Clause must necessarily disturb the minds of the greatest part of the kingdom, for if those be not good laws, all commissioners, assessors, collectors and receivers of the late taxes, are not only subject to private actions, but to be criminally prosecuted for one of the highest offences against the constitution of the English government, viz. the levying Money on the subject without lawful authority; all persons who have lent money, upon the credit of those laws, will be in dread of their security, and impatient to get in their money; all persons concerned in levying the present taxes will be fearful to proceed; all persons who have accepted any offices or employments ecclesiastical, civil or military, will be under the apprehension of having incurred all the terrible forfeitures and disabilities of the Act of 25 Ch. 2. c. 2. and all who have any way concurred to the condemnation or execution of any person upon any act of the late parliament, will think themselves in danger of being called to an account for murder. 3. Because to leave a doubt touching the validity of the last parliament, is to shake all the judgments and decrees given in the house of peers, or in Westminster-Hall, during this reign; and to bring a question upon the whole course of judicial proceedings. 4. Because if the authority of the last parliament be not put out of the question, the authority of the present parliament can never be defended, for the statute of 5 Eliz. c. 1. makes the election of every member of the house of commons absolutely void, if he enters into the house without taking the Oath of Supremacy, which no one person having done, there is an end of this house of commons: and by the statute made 30 Car. 2. if any peer or member of the house of commons presume to sit and vote without first taking the Oaths of Allegiance and Supremacy, before the Speaker of the respective houses, he does not only forfeit 500*l.* and become a Popish Recusant, and disabled to take a legacy, to hold any office or place of trust, to prosecute any suit, to be a guardian, executor or administrator, but is made for ever incapable to sit and vote in either house of parliament; and consequently this can be no parliament, nor any who have sat in either house be capable of sitting in parliament hereafter. 5. Because to leave room to doubt of the authority of the last parliament, is to shake the Succession of the crown established by it, and the credit and authority of all Treaties made with foreign princes and states by king William, as the undoubted king of these realms; so that if the last was no parliament, and their acts no law, this is our case: The nation is engaged in a war without the consent of parliament, the old Oaths of Supremacy and Allegiance remain in force, and the nation forced under colour of law, to swear fidelity to king William, though they can never act as a lawful parliament without taking the

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and warm debate. The Tories offered to enact, that these should be all good laws for the time to come, but opposed the doing it in the declaratory way. They said, that it was one of the fundamentals of our constitution, that no assembly could be called a parliament unless it was called and chosen upon the king's writ. On the other hand it was said, that whatsoever tended to the calling the authority of that parliament in question, tended likewise to the weakening of the present government, and brought the king's title into question. That a real necessity, upon such extraordinary occasions, must supersede forms of law; otherwise the present government was under the same nullity. That forms were only rules for peaceable times; but in such a juncture, when all that had a right to come, either in person, or by their representatives, were summoned and freely elected; and when, by the king's consent, the Convention was turned into a parliament, the essentials, both with relation to the king and people, were still maintained in the constitution of that parliament. After a long debate the act passed in the house of lords with this temper, declaring and enacting that the acts of the Convention-Parliament were and are good and valid." Tindal.

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Oaths of Allegiance to king James: All judgments and decrees in the house of lords, during the late parliament, are of no force; great sums of money have been levied, without consent of parliament, and men have been put to death, not only without, but against law; which is the worst sort of murder: Lastly, the king upon the throne, the peerage of England, and the commons freely elected by the people, have been parties to all this: the peers and commons now assembled are under a perpetual disability, and the nation is involved in endless doubts and confusions, without any legal settlement or possibility to arrive at it, unless a parliament be summoned by king James's writ, and the Oaths of Allegiance taken to him. (Signed) Bolton, Macclesfield, Stamford, Newport, Bedford, Herbert, Suffolk, Monmouth, Delamer, Oxford."

April 8. The Bill was read a third time, and the question was put, Whether this Bill shall pass? It was resolved in the affirmative. Before the question was put, several lords desired leave to enter their Dissents, if the question was carried in the affirmative. "1. Because we conceive, that saying, 'It is enacted by the authority of the present parliament, that all and singular the acts made in the last parliament were laws,' is neither good English nor good sense. 2. If it were good sense to enact for the time past, it must be understood, on this subject, to be the declaring of laws to be good which were passed in a parliament not called by writ in due form of law, which is destructive of the legal constitution of this monarchy, and may be of evil and pernicious consequence to our present government under this king and queen. (Signed) Somerset, Rochester, J. Jermyn, Westmoreland, H. London, W. Landaffe, Huntingdon, Abingdon, Tho. Menev', Feversham, P. Winchester, W. Asaph, Scarsdale, Weymouth, Dartmouth, Nottingham, Wigorn'."

April 10. The Reasons in the Protestation made the 8th instant against some words in the said Bill being read, were, upon the question, severally ordered to be expunged out of the Journal.—Leave having been asked and given for entering Dissents, if the questions were carried in the affirmative:

"Dissentient, Whereas the questions for expunging the Reasons of our Protestation April the 8th, were carried in the affirmative; and whereas these Reasons were only against some words in one clause in the Bill entitled, An act, &c.—And leave being given to enter our Dissents to those Reasons, we do so accordingly for these Reasons:—1. Because it is the privilege of the peers to enter their Dissent, and it has been the antient practice to enter also the reasons of such dissent, of which the lords, that so protest, are the most proper judges, as well knowing what arguments persuaded them to be of that opinion; and no reasons can be more proper than such as they conceive are founded upon matter of fact and the law of the land. 2. Because there is no other precedent of expunging the reasons of any Protestation. 3. Because the Protestation was not against the whole Bill, but some particular words of it; but by expunging the Reasons of that Protestation, it appears that we have protested against the whole Bill, which is contrary to our sense and intentions. (Signed) Nottingham, J. Jermyn, H. London, Tho. Menev', Ed. Wigorn', P. Winchester, Hum. Bangor, Westmoreland, Chandos, Abingdon, W. Asaph."

*Debate on reversing the Judgment in a Quo Warranto against the City of London.**] April 8.

* "The violence and injustice with which the election of Sheriffs (in 1682) was carried by the court, shewed that they were resolved, by fair or foul means, to have the government of the city in their own hands. But, because they would not be at this trouble, nor run this hazard every year, it was resolved, that the Charter of the City must either be given up, or be adjudged to the king. The former was much the easier way; so great pains were taken to manage the next election of the Common Council, so as that they might be tractable in this point. But after all the practices of the court, in the returns of the Common Council of the City, they could not bring it near an equality for delivering up their Charter. The court, finding that the city could not be wrought on to surrender their Charter, resolved to have it condemned, by a judgment in the King's-bench. Jones had died in May; so now Pollexfen and Treby were chiefly relied on by the city in this matter. Sawyer was the attorney general, a dull hot man, and he undertook, by the advice of Saunders, a learned but a very immoral man, to overthrow the Charter. The two points upon which they rested the cause were, 'That the Common Council had petitioned the king, upon a prorogation of parliament, that it might meet on the day to which it was prorogued, and had taxed the prorogation as that which had occasioned a delay of justice.' This was construed to be the raising sedition, and the possessing the people with an ill opinion of the king and his government. The other point was, 'That the City had imposed new taxes on their wharfs and markets; which was an invasion of the liberty of the subject, and contrary to law.'—After long pleadings, on both sides, when the matter was brought near Judgment, Saunders, who had laid the whole thing, was made chief justice; Pemberton, who was not satisfied in the point, being removed to the Common Pleas, upon North's advancement. Dolben, a judge of the King's-bench, was found not to be clear; so he was turned out, and Wythens came in his room. When Sentence was to be given, Saunders was struck with an apoplexy; so he could not come into court; but he sent his Judgment in writing, and died a few days after. The Sentence, which was given without the solemnity that was usual on great occasions, was, 'That a city might forfeit its Charter; that the malversations of the Common Council were the acts of the whole city; and that the two points set forth in the pleadings were just grounds for the forfeiting

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Sir *Edw. Seymour.* You have been moved by the members for London to reverse what is not, and to restore what they have. I apprehend, you ought to remove a doubt first, what are their privileges, and not leave it to the judgment of this or that learned serjeant: trace it to its original. I have heard no man say, that the crown has not a right to a *Quo Warranto.* If so, there may be Judgments, and not to be reversed but by a superior power. What signifies any man's telling you it is no Judgment; and therefore there is no room to scruple whether reverse, or no? If you reverse it, then leave them in the same right they had before. They have acted by another power, by a commission; I will not say, whether legal or no; but you are told by an honourable person (Hampden) 'That something has been done by the city of London, which he does not approve.' If both old and new were put out, and better put in, it would be more for their advantage.

Mr. *Hampden.* I did say, 'That some things had been done in the city of London, which I could wish had not been done.' I do not like every thing that has been done in the city; but I would be repeated when things are fresh in memory.

Mr. Solicitor *Somers.* A void judgment may be given, as well as an erroneous judgment. I will never give my consent to countenance such illegal and cursed judgments, to bring in Popery and arbitrary power.

Sir *Tho. Lee.* I am for the first part of the question, because I would have it sufficiently damned. I would have the Judgment reversed and voided from the beginning, and so understood and expressed too; else it will be from the first day of the parliament only. I shall never give countenance to any, to thrust themselves into offices to pack juries. They may crowd in the water-bailiffs, and markets, if you divide not the question.

Sir *Edw. Seymour.* I presume, no man doubts but that Hampden can form a question [reflecting] to the advantage of the thing he proposes; we have every day's experience of it. I did not expect to have had this question so laboured; truly, I did not. I love not artifices without doors; but I hear of a Bill already framed by members of the city, (not your members to be trusted with it,) to make the city a Commonwealth; and, Ordered by the Common-Council, 'That in case their own members shall not move the parliament, then the mayor and aldermen to deliver it to others; and the Bill prepared by their committee shall be presented; and if not, some other members of parliament are to do it.' Thus you see what work is cut out for you, that even in the work they have cut out they dare not trust their own members. The Bill makes the city independent from monarchy. I have not seen the bill; but those that have, inform me of this; and it is shrewdly to be suspected, when they dare not trust their own members.

Sir *John Lowther.* I hope this house will not be prevailed upon to have an ill opinion of the city, upon common hearsays. If ever such a Bill be brought in, I believe it will be thrown out with indignation. I hope never to see a common-wealth established here.

Mr. *Powle,* Master of the Rolls. You are engaged in a dispute on the words of the question. I take it to be a ground, that this Judgment against the city Charter be declared void. If a court give a judgment illegal and erroneous, it is good till it be reversed; but when the court has no jurisdiction, it is void in itself: I take it with that distinction. I take this to be a void judgment, and that the court had no jurisdiction, because it intrenches upon the jurisdiction of this house. The judgment was a dissolving and annihilating the corporation of London. Those bodies dissolved, of what shall this house consist? Dissolve old ones, and send new ones, as you please—If it be admitted, that this judgment was ever good, it shall bind as long as it is not reversed. This strikes at the root and foundation of the government; therefore we can do no better than declare, that the court had no jurisdiction. The words, 'To restore the rights and privileges, &c.' carry as much force as 'reversed;' which pre-supposes, that the Judgment had some validity, as being from a legal court.

Resolved, "That leave be given to bring in a Bill to reverse the Judgment in a *Quo Warranto* against the city of London, as arbitrary and illegal; and thereby to restore the city of London to its ancient privileges."

Debate in the Commons, on the Recognition Bill.] April 9. An ingrossed Bill, from the lords, for recognizing king William and queen Mary, and for avoiding all questions touching the Acts made in the parliament assembled at Westminster the 13th of Feb. 1688, was read the second time.

Lord *Falkland.* I am as much for the interest of this Bill as any body, but not for so hasty proceeding as is moved, 'to read it a third time now.' There have been great debates in the lords house about this bill: statutes and laws are mentioned in it. I would have

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of a Charter.' Upon which premises, the proper conclusion seemed to be, 'That therefore the city of London had forfeited their Charter:' but the consequences of that were so much apprehended, that they did not think fit to venture on it: so they judged, 'That the king might seize the liberties of the city.' Upon this, the king sent a new Message to the city of London, requiring the Common Council to deliver up their Charter, threatening them, that, otherwise, he would order the Judgment to be entered; and, upon their refusal, the Judgment was entered, and the king seized on their liberties. Many of the aldermen, and other officers, were turned out, and others were put in their places. So they continued, for some time, a city without a Charter, or a Common Council; and the king named the magistrates." Burnet.

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them read. When that is done, I would go into a committee of the whole house.

Sir *Tho. Clarges.* I would observe the same words you did in the Abdication, when you did present the Address to the king and queen, to take the crown and dignity upon them; and I do concur and consent, that they 'are' so by the laws of the land, consonant to all laws practised in this nation; but that they 'were,' and 'are.' 'Were' they before they 'were in being?' I think it worth the consideration of this house—The nearest to this was the Convention, 12 Charles 2. An act was for confirming those acts, with this Clause, 'That, nevertheless, the king might prorogue that parliament, for, if the people may assemble a parliament, the king cannot dissolve it;' therefore that clause was put in, that the king might prorogue it, &c. We sit not here from the last Convention, but by oaths framed from the original contract, by which the king and queen took the government upon them. Here are acts for Money; I care not how soon they are confirmed, nor that of Ease to Dissenters. I would give them all the authority that may be; but I cannot declare, 'That they are and were king and queen, &c.' Therefore I move, that you will go into a committee.

Sir *Henry Goodrick.* Until an objection be made against the Bill, you are not to go into a committee; but when we come to a point to consider that objection, that of the Recognition is the first part. It is agreed by all, that we are bound in conscience to recognize the king and queen. The next, why those laws made, are not laws? That they 'were' and 'are,' must be taken from Feb. 25. If that be matter of dispute, it will involve us in great hardships. What are the laws that men cannot come up to? The Act for Money, or the Act for Ease to tender consciences? Is it for those bishops that will not come up to the government, and take the oaths? If you vary that, or make that a scruple, whither will you launch? If you make a doubt of what you have done, if they were good laws, and not good laws, where will that distinction end? If any thing in the Bill struck at the fundamentals of the government, you might debate it. We ought all to lay hands to the government: it is not the noise in the lords house that should weigh with us, but we should think of the preservation of the government, and our own safeties; which cannot be without this bill.

Sir *Tho. Clarges.* I did not except against the particulars of the Bill: I can come up to confirming all the laws; but, I think, to say, they 'were' and 'are,' not proper for a bill.

Mr. *Palmes.* Gentlemen that have made objections, I think, have not begun at the right end. You recognize, that the king and queen 'were' and 'are,' &c. Will you have it in those general words? I would have it qualified from the time, some time limited.

Sir *John Lowther.* Perhaps I am one of those that wish this bill had never been brought in. I am satisfied with what the last parliament did: I acquiesce in their authority, as the whole nation has done. I hope none will call the right of the king and queen in question. As here, so elsewhere, disputes ought to be avoided. I never knew, but distinctions occasioned disputes. I think 'were' and 'are,' must relate to the time the king and queen received their royal sanction, and were king and queen from the time they accepted the crown. The last parliament had power to alter the old laws, and substituted new oaths instead of the old. This being so, I cannot imagine that this should be a dispute. We have the consent of the people to remove all disputes and difficulties. In the 1st of Henry 4, there were laws enacted, and in force to this day, though they had not all the formalities of laws. I move that you will not go to particular distinctions. The words are plain, and all would submit to the true intent of the bill, and I move for a third reading to-morrow.

Sir *Robert Sawyer.* For the reason given, I am for committing the bill. I did recognize the king and queen, and for ever shall do so. But as for such general laws as this—The council of Trent made canons that every one might make his construction of—It ought to have some words of reference. The law of conquest is the law of all nations. First, these are the words of the Crown's Settlement, and then of Recognition, though those are the same words. 'Interest vested in the king and queen' are legal words, and therefore I would have it in such words as are limited by that act. The Judges must judge according to the laws of the land. If you make no limitation of the crown, it is in the king for ever; it is therefore proper and fit; and, I believe, no man, that has taken the oaths, but acknowledges the government, and I would have it in the words of the late Act of Rights.

Mr. *Harcourt.* I have some doubt that these words may destroy those in the Bill of Rights. I have ever thought the monarchy hereditary; and by this, what becomes of your entail? I am not satisfied that those of 1660 were acts of parliament; they needed confirmation. These are my doubts, that at present I am under. I second the motion for commitment of the bill.

Sir *Tho. Littleton.* I am for reading the bill to-morrow, notwithstanding what I have heard to the contrary, plainly, that we may be satisfied, that the last parliament was a legal one; and I stand by it, and declare it so. I am not for confirmation of it, for that strongly implies that it was not so before. If you express it no farther than the act mentioned, you raise a doubt whether that was an act or no. I would not raise more scruples than necessary.

Sir *Joseph Tredenham.* Without taking the Tests in the act, no man can sit here. The word excepted against is, 'were.' I say again, that nothing ever was, but what had a beginning. I speak of sublunary things. I should be loth to give occasion in the next age, to be still in doubt by an ambiguous word. I am

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for confirming most acts of the last parliament, but the grammar of the expression I understand not; to enact a thing that 'was.'

Mr. *Hampden.* You have had several motions to go into a committee grounded regularly upon exceptions, or pretended exceptions. The first question is, Whether the bill shall be committed, or not? The next, Whether it shall be read a third time? I see, all gentlemen intend the bill should take effect, except one, that questions, whether those were acts, or no, in the last parliament. I cannot comprehend how this is against grammar, 'Were and are king and queen of England;' where is the hurt, when they were before the last parliament? Will you say that those, before this parliament met, were not laws from the time that the parliament met, unless they were excepted in another act to the contrary? I say, they were laws, and if it pass, as moved, a great many distinctions must be in this act. I see not what reason there is for committing it. It may occasion great debates. All you agree is, that they 'have been' so, as well as 'are so.' If you go into a committee, time will be spent, and if the king resolves to go into Ireland, before this bill pass, and leave it upon the table, I should be very loth to leave things so.

Mr. Comptroller *Wharton.* If we sit to hear all the objections that lawyers will make, we may sit till king James comes in again. You do not stand by your government, if you declare it not as in the bill, and if your last laws were none, you are no parliament, and it is no government.

Sir *Christ. Musgrave.* It is no reason against the commitment, 'Because it may occasion debate;' it is the natural reason for commitment, and for that reason it ought to be. I would not only have it clear to my own understanding, but to those without doors. I see no reason why these words 'were' and 'are,' should be in the bill. I should be unwilling to leave it to Westminster-Hall, to explain it. I know not what the lords mean by 'were' and 'are.' I am for explaining it. It is far from my thoughts not to have the laws of the last parliament confirmed. By the same reason, they may question how you came to be a parliament. We ought to make it so clear, as without doors to make a reasonable answer to a question. Says a gentleman, 'I would not explain it, because it may occasion debate at a Committee;' and for that reason I would commit it.

Mr. Solicitor *Somers.* I have observed the objections as well as I can. If there be no weight in them, there is no reason that the Bill should be committed. It is said, 'enacting that they were laws, seems not a proper expression.' In legislative capacity, 'enacting' is declaring 'it was.' It is said, by a person, 'That he agreed to the first part, because agreeable to the Bill of Rights.' You are told by a gentleman, 'That he is willing to confirm all the last parliament did.' If the laws of the last parliament want confirmation, it is impossible for you to give it. The validity of what they did, depends upon the validity of this parliament; and if so, it is impossible that should ever be a parliament, and this none. Queen Elizabeth enacted 'the members taking the Oaths of Supremacy and Allegiance, otherwise their election should be void;' then I am sure there is an end of this parliament, for we have not taken the oaths of Allegiance and Supremacy, 'and incapable of ever being a member of either house;' so this puts an end to both houses of parliament. In the Convention of 1660, there was a king in being, and the next parliament was legally called by writs. This parliament depends entirely on the foundation of the last, and if they want a confirmation, neither this, nor the last parliament, can confirm it. It is said by Sawyer, 'conquest is a law.' It is the first time I ever heard it. I have heard that conquest supersedes all laws. It is said, 'To the time of the landing of the prince of Orange, according to the laws and statutes, they are king and queen.' Does not the Act of Settlement declare it? And you may very well refer to that law, when they had their royal sanction; I think there is nothing against the reason of the thing.

Sir *Wm. Pulteney.* I hope we all agree that they are king and queen; if we do not, we are forsworn. The only thing that sticks with me, is, I do not think that you intend that that Act about the Succession should be left any way uncertain, that what we all mean should be clear. Why then should it not be declared, 'That they are king and queen, according to the Bill of Succession?'

Sir *Tho. Lee.* It is the natural question, when exceptions are taken to a bill, to have it committed, and of bad consequence if any other question be put. I will trouble you now, only to offer an expedient how the matter may be solved, and the bill not committed. There is nothing of worse consequence, than to explain what right we sit here by, or upon what government we stand, lest we should make farther limitation of the crown than we have done. Possibly a rider, to declare nothing in this act against the Bill of Rights, &c. For that reason I am against committing it.

Sir *Christ. Musgrave.* I second the motion for a rider, and you may soon order it to be drawn to the effect moved by Lee.

Mr. *Hampden.* As for the expedient offered by my countryman, Lee, I gave no encouragement to it. I neither did oppose it, nor approve it. It tends to the great prejudice of the crown. Such a motion for a rider is irregular. A rider is proper to be added to an ingrossed bill, but not against so great and substantial a clause of the bill as is opened.

Mr. *Godolphin.* It is dangerous to recognize the government upon such terms as to endanger the government. Some may interpret, 'From the king's landing, &c.' some conquest. —I would have it in plain words, that every one may understand; and it might be mended in three words. 'Be,' and 'be reputed,' looks

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as if the case of the kingdom was like the gentleman that rode over Rochester-bridge upon a single plank, and was so struck with astonishment afterwards, that he fell down dead—We have gone over a precipice, and we ought to walk warily.—He was called to order, by

Sir *Tho. Lee.* It is proper to debate now the time of reading of the bill, but not the words of the bill.

Mr. *Godolphin.* I desire leave to bring in that rider mentioned by Lee.

The *Speaker.* 'Leave to bring in a rider' I never heard of before. Every one is at liberty to do it without leave.

Sir *John Lowther.* I own myself convinced that the bill ought to be read to-day; and as for the expedient, if you give time for a rider, you will have all the ill consequences that can be, as if the king had another title by conquest. This clause is no more than what was done the last parliament, and has destroyed all supposition by conquest.

Sir *Tho. Lee.* As I told you before, I am always for preserving order. Neither now, nor to-morrow, ought to be the question, but whether you will read it, or not. [He mistook.] I am sorry that any thing I said, by reason of arguing, should be taken for a motion. I thought I spoke plainly to orders and methods. What I did say, was, 'That it is in every gentleman's power to offer you a rider, if he pleases.' Mine was only an argument, what any gentleman might offer you.

The Bill was read a third time, and passed, the question for committing it being carried in the negative.*

Debate on the Sheriffs of London being called in.] April 17. The house was informed, that the Sheriffs of the city of London attended at the door, to present a Petition to the house.

Col. *Birch.* I move that they may be called in; it is a respect that was never denied to the city of London, which has been so useful to the government.

Sir *Edw. Seymour.* According to usage of parliament, they ought not to be called in. Have they not their representatives here? If it be a private business, you ought not.

Mr. *Sacheverell.* I am not of opinion that there are any such practices in the city as gentlemen talk of. Though I like not very well the change that has been lately made there in the Militia, nor the Bill to vacate the Judgment against their Charter. I will never be for them that would not stand with them for justifying their liberties. You do the corporation no good by reversal of their judgments. Instead of relieving them, you put them in a worse state than before their charters. I am for giving them their just rights, and no more.

Sir *John Lowther.* The debate is wholly irregular. To talk of Bills not brought in—I never heard that a Petition was delivered to the house, but was first opened, to see whether it was fit for you to receive; for sometimes you have rejected petitions. The last time you refused one from the city of London, because it was not opened. This is a matter that may create heats by dividing us, of the most dangerous consequence. In all companies, they talk of our divisions, that they will ruin us. If it be as people talk, it is a Petition for a bill to establish their own rights. No act enjoins the mayor and aldermen to petition, and nobody else. Consider the consequence of such a petition to the nation. Who shall you gratify by this but your enemies? Pray go to the order of the day.

Sir *Henry Capel.* A bill has been prepared, and read, about their privileges, and they may take notice of it. If the change of the lieutenancy in the city has been a misfortune, this is the place for it to be heard in, composed, and reconciled. I will not interfere in the order of the day, but beg all encouragement possible to the city. We know not where to have the Money, but in the compass of the city of London; therefore, pray, put no discouragement upon them, but call them in.

Sir *Tho. Clarges.* It is proper, now the Petition is opened, to consider whether you will receive it, or no? Pray let me put you in mind how you are used in this matter. The mo-

* "On the very day that the Bill passed the lords, it was sent down to the commons, and on the morrow it was taken into consideration by that house. Great and long debates were expected. 'But to the wonder of all people,' says our lord of Salisbury, 'it passed in two days, without any debate or opposition.' His lordship adds, 'The truth was, the tories had resolved to commit the bill, and, in order to that, some trifling exceptions were made to some words, that might want correction: for bills are not committed, unless some amendments are offered: and when it was committed, it was then resolved to oppose it. But one of them discovered this too early; for he questioned the legality of the Convention, since it was not summoned by writ: Somers, then solicitor general, answered this with great spirit. He said, if that was not a legal parliament, they who were then met, and who had taken the oaths enacted by that parliament were guilty of high treason: The laws repealed by it were still in force; so they must presently return to king James: All the Money levied, collected and paid, by virtue of the acts of that parliament, made every one that was concerned in it highly criminal. This he spoke with much zeal, and such an ascendancy of authority, that none were prepared to answer it. So the Bill passed without any more opposition. This was a great service done, in a very critical time, and contributed not a little to raise Somers's character.' It farther appears, by the Journals, that a motion was actually made for committing the Bill, which was over-ruled without a division: whence it follows, that the Tories were divided among themselves upon this subject; for, as they were the majority, had they been unanimous, they might have rejected it at the first reading." Ralph.

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tion is, to restore the city to its ancient liberties, but you order a Bill to vacate the Judgment, and it is ordered to be read a second time. When you were at your devotions (the Fast-Day) no day would serve their turn for a Common Council, but that day. You were told of a great change in the city Militia; but I think, the king could not go with any security out of London, without that change of the lieutenancy. I remember, and sadly, what they did in Charles 1st's time, and the consequences. I am loth to give the Petition the name it deserves, and I would not have it read.

Sir *Tho. Lee.* I am one of those who were always of opinion, that just so much is due to London, and no more, as to every little corporation in England; 'That they have a right to petition, either by themselves, or their members, at this house;' and we cannot deny them, if they come in that due measure, and decency, as they ought. If the matter be what they ought not to petition, they are in your hands. I know nothing of the alterations in London; but I take it for very fortunate, that the Judges have their places now *Quamdiu se bene gesserint;* I should be afraid else the old ones would come in. I hope those who are the advisers of the king's change of the officers will take care, if this change be not good, that it shall be altered; if those judges should come into their places that have done ill. If the county of Buckingham should send a Petition, I hope you will receive it.

Mr. *Harcourt.* It seems that this Petition is framed rather at a cabal, than from the city; and not only brought in by the sheriffs, but against the very act of the members of the house.

Sir *Robert Howard.* I shall not enter upon complimenting the city, nor upon particular respects, but your duty in respect of yourselves. I know not how the Common Council is become a cabal now; it was a good cabal, when the king desired 100,000*l.* and they sent him 200,000*l.* I have a respect for those put in, and for those put out; but you must not be led on thus: since some of Mr. Cornish's and lord Russel's jury, murderers, had the power of the sword in their hands; those put out, I believe, are remote from a commonwealth—To refuse this Petition is one of the sharpest things that ever was. Was not Oxford Petition, between the first and second reading of a Bill, read! This would be a favour to encourage the city to assist; and these very people are not so inconsiderable a cabal, if it be one. If a member be so affixed to a town, or a place, what does he here, if he be not for the public? Pray be pleased to admit the Petition; if it be not fit for you, throw it out. Nobody knows yet what it is; and it will be strange to receive Oxford Petition, and throw out this.

Sir *John Parsons.* I will not call it a cabal; but several aldermen were not called to the common-council, and particularly I was one.

Col. *Austen.* I tell you why I would not be too strict in observing days. Deeds of charity may be done on that day as well as others. When you have occasion to use those gentlemen of the city, do not anger them. (Some laughed.) I cast my eye upon those that carry their pleasure of ridiculousness upon me, which I despise. Pray consider, whether you will not have occasion for money.

Mr. *Coningsby.* That question puts me upon another; whether those gentlemen will lend? I hope there are no murderers in the lieutenancy of London; and I hope those that will not qualify themselves, will be turned out.

The Petition was then opened by

Sir *Robert Clayton.* (But he had not the Petition in his hand; which was against order.) I am not versed in the laws, but I know none 'That my lord mayor and the aldermen should bring the Petition themselves to the parliament.' They ought to be delivered by members of the house. Every member here serves for all England.

Sir *Edmund Jennings.* I know none put in nor out of the lieutenancy, but, I believe, on good consideration. The Gazettes were stuffed with Addresses to king James, to stand by him in the Dispensing Power with lives and fortunes: Quakers, Anabaptists, Presbyterians, and other sects; they either stood by king James, or assisted him. If they did it, or did not assist the present king, what security can the government have from them, that either opposed this king, or forsook king James? They are fit to be put out not only of civil but military employment. The king did not understand the constitution of the government, when he came in; but, since, he knows who are fit to be employed, and that these men put in are fit.

The question being put, That the Sheriffs of the city of London be called in, it passed in the negative, 215 to 166.

Debate on the Bill for reversing the Judgment against the City of London.] April 22. The Bill for reversing the Judgment, in a *Quo Warranto*, against the City of London, was read a second time.

Sir *Robert Clayton.* I am of opinion, with those that think this to be of great concern to be settled, in order to that, to lay our hands and heads to work. I would obviate all scandal laid on the city of London, by this Petition, that you have rejected, as not well obtained. The common-council ordered a Bill to be proposed to present to the house; they did this on Tuesday in the afternoon. They summoned a council, by which a committee was empowered to draw a Petition to present to the house. As to summoning the council, the lord mayor assures the house they had due summons. Sir John Parsons told you, 'he had no summons:' another, Mr. Perry, tells you of a nephew of his that had no summons. Parsons orders all his summonses to be left at a goldsmith's, and his summons was left accordingly; and the officer made oath that Parsons never called for it. The wards were summoned by printed tickets, and there are witnesses at the

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door, to prove a regular summons to every man. I cannot discover the least in their intention of surprize. If the house will have farther satisfaction, the witnesses are at the door. The committee would have gone farther, if they had had power. I take leave to offer you my thoughts, where the Bill is defective: There is no provision, that the companies shall be restored; nor provision to indemnify those that acted under the new charter; nor any for the magistracy of the city. I hope the prudence of the house will take care of that. If the magistrates that were before, take the same place as formerly, you must have the same sheriffs you had before. If all be restored that were before, you may see king James here again, if the king go into Ireland.

Mr. *Papillon.* The Bill is so far from the title, that it is against the thing. There were great endeavours to take away all the privileges of the city: soldiers were drawn up in Guildhall. This was before the Judgment upon the *Quo Warranto.* As this Bill is penned, you confirm all that was done before, instead of restoring the privileges. I move that you will enquire into what ancient privileges the city had before by the Judgment and *Quo Warranto* they were taken away.

Sir *John Guise.* I would know, whether you do not confirm that election of sheriffs, by which they lost all their liberties? Will you confirm all these actions? You are told, 'This was a cabal that framed the Petition;' but we do not find but that they had legal summons. They desire one thing, and you do another: They desire to be heard by counsel to the Bill; and that is made a ridiculous thing. You deny nobody counsel to be heard in the like case. I am not against the commitment of the Bill; but a great many things are to be thought of; and I hope you will take such consideration and steps, as wise men ought to think of, and not lay imputations upon people of a commonwealth. Those who spread such reports betwixt the king and his people, are criminal.

Sir *Tho. Vernon.* There is one thing to be provided for, that all freemen may be confirmed, livery-men paid, some 20, some 25*l.* for it. That that may be confirmed, I would have part of the instructions to the committee.

Mr. *Foley.* I suppose it is not the design of the house to restore those to their places, who have lost them because they would not swear to the government: that is not for the king's interest, nor the city's. It is intimated, that this bill will restore sir Dudley North and sir Peter Rich to be sheriffs. I know not how the house will come up to that, I think Rich has lost his alderman's place; and, notwithstanding disability of places, by this bill they are restored. I would have them restored to the rights they had before the Judgment against the Charter.

Resolved, That the Bill be committed to a committee of the whole house; and that Counsel be heard upon the said Bill, to such points as the house shall direct.

*Debate on the King's Change of the Lieutenancy of London.**] April 24. Sir *Tho. Clarges.* By this example of the change of the lieutenancy of London, the king has a great care of us; and I hope he will do the same all England over; and I move you to thank him.

Mr. *Papillon.* I must not jest with myself, though I am a citizen, but I know not who these persons are that you thank him for. I know not the names of a fourth, or a half of them; they may be obnoxious to the church of England, and the government. Such a motion as this, after two o'clock, is not for your honour.

Mr. *Campion.* I am for the church of England-men to be employed in this lieutenancy. I know not whether it be true or no, but I have heard, that several of them would not take the oaths to the government. I would know what this lieutenancy is, before I give my consent to thank the king.

Mr. *Finch.* I think the gentleman mistakes the motion; for the Address to the king is for those in the lieutenancy; and those that would not take the oaths, are not by law of the lieutenancy.

Sir *Robert Clayton.* I should be glad to understand the question, and the reason of it, (and so gives an account of the Change of the Lieutenancy in the last Commission.) But it is worth your examination, neither the ablest nor best men are added. I would examine, whether these persons are worth the favour of this Address to the king. You will find, that many have had a hand in the worst things. I am for cementing, not for dividing. Divisions and

* "The Corporation Bill did so highly provoke all those whom it was to have disgraced, that the Tories were by far the greatest number in the new parliament. One thing was a part of the bargain that the Tories had made, that the lieutenancy of London should be changed. For upon the king's coming to the crown he had given a commission, out of which they were all excluded; which was such a mortification to them, that they said, they could not live in the city with credit, unless some of them were again brought into that commission. The king recommended it to the bishop of London to prepare a list of those who were known to be churchmen, but of the more moderate and of such as were liable to no just exceptions; that the two parties in the city might be kept in balance. The bishop brought in a List of the most violent Tories in the city, who had been engaged in some of the worst things that passed at the end of king Charles's reign. A committee of council was appointed to examine the List, but it was so named that they approved of it. This was done to the great grief of the Whigs, who said, 'That the king was now putting himself in his enemies hand, and that the arms of the city were now put into a set of officers, who, if there was a possibility of doing it without hazard, would certainly use them for king James." Burnet.

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parties never did good, nor ever will, of any church or party whatsoever. If you will give liberty to enquire further into the lieutenancy, I believe you will not pass this vote.

Sir *John Lowther*. I am for this, because it will take away our divisions. If the king remove me, I am so conscious to my own abilities, that I shall agree that I am justly removed; and if they have not given satisfaction to the government, I hope they will comply for the future. We have had talk of ill management of Addresses for removal of persons, and catechising the king. I hope that is gone. I hope he will have success and encouragement in the farther methods he shall please to use, and take away all dangerous and factious people, to the full satisfaction of the government. If there are such men, they are fit for removal, and I hope they will be turned out; and that it will extend to both sides, one as well as the other, and take away all divisions for the future.

Mr. *Foley*. I am afraid we are under a mistake in this. Some said, they were Church of England-men, and some not. I have seen a List, and I must observe many in the lieutenancy that have had their hands in blood several times over. 'Tis not for the service of the nation to condemn a man upon one witness, and one that contradicted himself. Some are there, who went to congratulate king James after his return, and the landing of the prince of Orange. I know not why you will take so much notice as to give the king Thanks for these men. They have chosen one for colonel, who would not qualify himself to be an alderman, and has appeared, by force, to controul elections in the city. I believe, when you examine, many things will be proved upon these persons; and, I hope, when the house has a full information of these things, they will not think it for the interest of the king and kingdom, that these men should be continued.

Sir *Samuel Dashwood*. I find, great stress is laid upon one particular, of persons unqualified. The matter of fact is this: sir James Smith happened to be in the country; and I have heard him solemnly declare, 'That he never heard of that act.' Though the court of aldermen did not admit him, yet they admitted another under the same circumstances. Sir Tho. Allen omitted it solely upon ignorance of the act. I know many, of great reputation and honour, of the city, (if I may call it so) and their loyalty did manifestly appear by the great sums they sent the king. Be they Churchmen, or not, this particular person is as honest to the king's interest as any man in the lieutenancy.

Sir *Robert Howard*. I am of his mind. I would not shut a man out of the government, that is willing to come in, both clergy and others: I am so far from taking advantage of omissions, that I would restore all. To the honour of the privy-council, it was said once, 'That you were beholden to the lower end of the table for taking away the Chimney-money.' I had no share in that advice; it was from the king.—But, for an Address to thank the king in general, there I must say a word. I speak under the shelter of an act of parliament—To ingross Thanks for such men, for actions you have marked and judged criminal! If you go on the method of thanks for the men of the Church of England, I am for that; but, for men that have committed murders (the king not knowing it); and you thank alderman Cornish's and lord Russel's Jury—King James took down Cornish's rotten quarters, set up there by as rotten a power—Pray let this be examined. Let us not ask the king for that, but for the Church of England—For acts, that we ourselves have condemned, that an act of parliament has condemned, and all mankind!

Mr. *Finch*. Most gentlemen mean the same thing, in this debate; It is not, that the house will thank the king for 20 or 40 people, but for those who, by their principles and practice, are for the Church of England. I would have a question that will thus take the sense of all men, I would have the king thanked, 'For the great care he has taken of the Church of England, in the alteration he has made in the Militia of London.'

Col. *Birch*. I did never think, after the experience I have had, ever to have heard this, and that we are all agreed to serve the king and kingdom. In the parliament of 1660, none abroad durst look the king in the face, when the king said, 'Let this be called the healing and blessed parliament.' Not long after this, one sort of people, who acted in a corner (I know who they were) made men criminated in most corners of the kingdom; this brought us into a low condition. We were taught that prayers and tears would cure us; but they brought Declarations and the government to tyranny. Pray let this Address alone, till we have beaten our enemies. I protest, if I would give advice from the other side of the water, it should be this; for gentlemen to give Thanks for they know not what. Let us see these gentlemen (we thank for) who they are first. I know what they are that stuck to the king, from Dan to Beersheba. To put the king into other hands, I am not for it. Examine who these are, and do not give Thanks hand over head for these men.

Sir *Henry Capel*. If I am not for the Church of England, I have much forgot whom I am descended from, that suffered for that church in the Palace-yard*. Is it a reasonable thing that the whole body of the parliament should address the king, &c. without satisfaction? Suppose you make this Address, and you find those put in are not of the Church of England, and have been of the bloody juries? When you address the king, do you not take every part of his Speech into consideration, before you draw up your Address? I never saw the List of this lieutenancy, but I have heard an ill character of some of them. I have seen the Church of England set forwards and backwards,

* Lord Capel, his father.

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by lord Clifford, who did head the Declaration; and here we are set one against another, and all for the interest of the Papists. We cannot justify ourselves to our country, in this Declaration, if any of these things alledged happen. Another parliament will find fault with this Address, as not consistent with reason. Unless there be some other design in it, I move, that a committee may make a fair report of these persons in the Lieutenancy, that we may be all unanimous.

Sir *Christ. Musgrave.* All unanimously agree for Thanks to the king, for his encouragement of the Church of England. Plainly, that is the sole bottom of his security, to establish the crown, to countenance it, and shall not this house take notice of it? It has given great satisfaction, in the country, that the king has made this alteration; and shall not the king know of it? I hope those of the council will advise the king of the sense of so considerable a part of the nation. What do the Dissenters terminate in, but a commonwealth?

Sir *Tho. Littleton.* It is strange to return Thanks to the king for this alteration, before we know whether it be an alteration or no. We are told, 'That the Dissenters are left in the lieutenancy.' I am one of those that would not make the king a king of a party. The misunderstanding in the nation, is not from Church of England-men and Dissenters, but betwixt Church-men and Church-men, that would ingross the name of Church-men, to bring in tyranny, and persecute all Protestant churches abroad. Those that are for having the king universal king of all his people, will support him in any trial: and I doubt that trial is nearer than we are aware of. The house is not yet so much satisfied as to know the names of this Lieutenancy of London. I am not for the question, till we know what we are doing.

Sir *Edw. Seymour.* I made you the motion that occasioned this debate. I hope now I shall propose something to all your satisfactions. I would address the king, with Thanks 'for his care of the Church of England, expressed in the alteration of the Lieutenancy of England.'

Col. *Birch.* In all these debates, something starts of use to the king and kingdom. I know not who is for king James, or who for king William. It grieved my heart to see a thousand at church last Sunday, and not forty at the Sacrament. He that is unworthy of the one, I think, is unfit for the other: it is a fund of confidence upon one another. Let us abjure him on the other side of the water; and, instead of this endless, sleeveless Address, draw up that abjuration.

Sir *Henry Goodrick.* I approve much what has been moved, that the Address be in general. I hope we shall avoid going from one extreme to another.

Col. *Austen.* I believe the Church of England all very good men; and those tools, or that made themselves so, who congratulated king James's return to Whitehall, and wept for joy, will you thank the king in general for these men? But, as to thanking the king for any general kindness done to the Church of England, I am for it.

Sir *John Lowther.* I would neither take notice of these mens merits nor crimes. But the interest is changed; and their morals are good, whatever their principles are. If you stay till all are of a mind, you will never have alterations; but if things are comparatively better, 'tis that which we give thanks for.

Sir *Henry Capel.* It seems to me, that every one is zealous for the Church of England well established for this particular place, for London only. The executive part is always in the crown; to put out, and put in, as it pleases: therefore it will be more safe, and more for the honour of the Church, and this house, that there be no negative for the whole kingdom. For the king's care of the Church of England, carry it as far as you will. Let the question be general, and leave out 'the Lieutenancy of London.'

Resolved, "That the humble Thanks of this house be presented to his majesty, for the great care he has expressed of the Church of England, in the late Alterations he has made in the Lieutenancy of the city of London." The words, "in the Lieutenancy of the city of London," were retained, 185 to 136.

Debate on the Abjuration Bill.] Mr. *Harbord.* Pray let us not lose our question, 'That they that will not make renunciation of king James's title, shall not have the benefit of the Habeas Corpus act, nor be capable to bear any office.' We have been told of 'Overloading the cart;' (by Birch) but I had rather have nothing in the cart, than leave the main load behind. And I move, that the word 'Ecclesiastical Offices' may be put into the question.

Sir *John Lowther.* 'Tis absolutely necessary, that this motion of the Habeas Corpus be put into the Bill of Abjuration. I know that designs are carried on, to the destruction of the government: therefore I would have it part of the instructions to the committee.

Sir *Tho. Clarges.* The Habeas Corpus act went backward and forward; and we had 16 years time to get it; and now to make a law to be deprived of that law! Make what penalties you will; but, in one act to repeal another, I know not where the consequence may rest. I value liberty more than life, or estate: that's my passive obedience; I cannot consent to it.

Mr. *Wharton.* We differ only about words. I say, 'Imprison,' as serjeant Wogan says, 'without bail or mainprize,' or to be deprived of the Habeas Corpus act, is the same thing.

Sir *Tho. Lee.* I am as fond of the Habeas Corpus act as any body. The bill against foreign imprisonment was lost once, in the lords house, by one vote. It was, when the liberty of the subject was inconsistent with what was to be then done. But this is only instruction to a committee, for direction to draw a Bill. I do it now, upon this particular occasion, now the king goes away, for the security of the government. But for those that will give no security,

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till Ireland be conquered, 'tis no hurt to your Act of Habeas Corpus.

Sir *Christ. Musgrave.* I did not give my consent to repeal the Habeas Corpus act then: but to give instructions to a committee to repeal a law, I never knew; nor is it the usual way, nor method of parliament. The blank for the Oath of Allegiance was filled up by a committee of the whole house.

Mr. *Harbord.* If you give a private member leave to bring in a Bill to repeal a law, you may surely trust a committee with it.

Resolved, "1. That a committee be appointed to prepare and draw up an Oath of Abjuration of the late king James, that all persons, in any employment or trust, ecclesiastical, civil, or military, shall be obliged to take: and that the committee do prepare and bring in a Bill for that purpose. 2. That it be an Instruction to the said committee, that such persons as will not take the said Oath, shall be committed, without bail or mainprize."

April 26. The Abjuration-Bill was read a second time.

Lord *Digby.* It is a tender point that I am going to speak to; and, before I enter into the debate, I desire I may speak freely, without prejudice. Whatsoever concerns the constitution of the present government, I would not be thought to speak against; nor for king James, if I speak against the Bill. The foundation of the government is the Bill of Rights; wherein the king promises his part, &c. and we swear fealty. This is our original contract; if there be any, I am of opinion that is it. This Oath I took with a good conscience, and will keep it. Till the king enlarges his part of the contract, I think we should not enlarge ours. I have heard of enemies against kingly government, and I fear this will create many more. This will not distinguish the enemies from the friends of the government. If this be, now the king is going into Ireland, it may be of dangerous consequence. These considerations weigh with me against the bill.

Mr. *Cary.* I am so much a friend to the government, that, when this was first proposed, I was for it, and ready to take any engagement; but the reason then for it, makes me now against it. To distinguish friends and enemies, supposes a need to support the government. Now you doubt your weakness, and prove it too. Do you not discover the weakness of the government, when you find it? The Oath of Allegiance has this Oath of Abjuration in it. Oaths lose their value, when they lose their necessity. Excommunication lost its force, when made too cheap, in the Romish Church. I shall proceed to show, that this is no security to the government. They that will evade one oath, will another. Those men that abjured king Charles 2, did not they bring him in? May not men that will evade these oaths, come into employment, and easily break through, and have advantage of betraying the government? They have taken the Oath of Allegiance; and if they have a mind to get off by evasion, they may do this of Abjuration. I am against a committee, &c. because it is against the government.

Col. *Granville.* I stand up to move for commitment, and really I cannot understand the reason of those that oppose it. This only obliges us to what we all have done. In that oath, I did heartily renounce all allegiance and kindness to king James. The duty to religion obliged us to displace a Popish prince: a Protestant title is the best title to the crown of England. If we discover our weakness upon an ill bottom, it will only discover our enemies. I have heard exceptions against ecclesiastics, &c. I cannot believe it, unless they have some secret reserve. If such men be in England, this bill is absolutely necessary. From treachery and false-heartedness is our ruin. Those who scrupled the former oaths, will these; and your great tenderness, in the last parliament, makes them scorn to owe any obligation to your mercy, because, they say, you durst not do otherwise: they are not to be led by arguments of clemency and good-nature. I am for the bill.

Lord *Falkland.* I am an advocate for the present government; and, for the same reason, I was for the Abdication of king James, and for the settling of king William upon the throne. The design of this bill is to distinguish your enemies: at home, they are too few to be feared, or too many to be provoked. When your enemies see you reduced to the last extremity, how will they value you? When Augustus Cæsar had a list given him of those who conspired against him, he burnt that list; which made those and their families his friends. If such think themselves bound in conscience to bring in king James, they will take this oath to bring him in. Those who brought in king Charles 2, valued themselves upon their abjuration of him. Upon the whole, I am of opinion that this bill is destructive to the government: I am against it. I have taken the oath of allegiance to king William, and will keep it; and I did in that abjure king James. I have suffered too much in the last government, ever to desire it to come back.

Sir *John Thompson.* One thing is missing in the bill, that all the lawyers in England swear to it, and then the divines will not scruple it.

Mr. *Harcourt.* I will support the dignity of the monarchy under the government: could I believe this bill would conduce to it, I should be as forward for it as any man; for, that person that will equivocate with the oath of allegiance, there is no security in it, and but little in this. I have often heard, that we have a powerful enemy abroad, and a necessity to unite at home. This will endanger fomenting and increasing jealousies. What we have done already does encourage our allies, and deter our enemies, and testify our firmness to the government, by the great sums of money we have given to support it. I will discharge my conscience, however I am mistaken. Such

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an unprecedented oath will give occasion to think there is some defect in the government, when such an oath was never required in this government to support it. Can we gain more friends? Those who quietly obey it, naturally, if they suffer by it, will find means to redress themselves. You will make no friends by it; you will make enemies. I hope there will be no reflection upon me, as against the government, because I am against the bill.

Sir *John Mainwaring*. I will give you my private reason, why I am for this bill. Suppose you have a member within these walls, that should say, 'If you will do as I would have you, send away king William, and send back for king James.' I have an attested copy of this information of one of your members.

Sir *John Guise*. When I see a gentleman give you this account, who is not likely to run away, I would have it heard on Monday; and I doubt not but you will think it worthy your care to know who this member was. If he does not make this out, he is under your censure, and you may send him to the Tower.

Sir *Ch. Kemeys*. I know not whether the member that said the words, may be here to-morrow; though, I believe, Mainwaring may be here.

Sir *Tho. Clarges*. This is an aspersion upon the whole house. For your own honour, if there be such a rotten limb, let him be named and cut off.

Col. *Birch*. It is not to say, 'name him, name him:' but things of this consequence are determined by a question.

Sir *John Mainwaring*. Now I am commanded by the house to name the person that said the words, I shall do it. The reason why I did not name him was, because persons have sworn it. I cannot assert the truth of it; but the gentleman is Sir Thomas Grosvenor.

Sir *Tho. Grosvenor*. There was a bricklayer in Chester, who said, 'He heard me say some words, when I stood for parliament-man.' Alderman Streete took the examination of the man: he was privately examined. On Sunday morning I heard of it, and came to Chester in the afternoon; and several citizens proffered to testify, upon oath, what this fellow was. He was bound apprentice to a person in Chester, whom he robbed, and another at London, and then turned fortune-teller. He came to Chester, and nobody would employ him, he was such a lying fellow. I caned this fellow for ill work he had done for me, and he swore he would be revenged of me. Alderman Streete threatened to lay this man by the heels, if he would not swear against me. He sent the Examination to lord Shrewsbury. Col. Cholmondeley carried the letter to my lord, and the Examination, which attested the villainy of this fellow. I entered into a recognizance of 5000*l.* to clear myself.

Col. *Cholmondeley**. I am sorry this thing has been mentioned. Lord Shrewsbury told me, 'That sir Tho. Grosvenor need not trouble himself; for this was some quarrel only about elections.'

Mr. *Shackerley*. I must justify this person. Because he would not take the Test, he was turned out of the army. A letter was sent from captain Middleton, to cast bullets, for the army, out of the lead-mines; and this Streete made use of the letter for casting of bullets for king James.

Sir *Robert Cotton*. I know this Streete did promote the business, when the city of Chester declared for the prince of Orange.

Mr. *Wharton*. I am sorry when there are any personal reflections in this house; but if you cannot get off from it at present, appoint a day. The gentleman is not accused by Mainwaring; but, for his justification, hearing this thing, he thought it his duty to acquaint you with it*.

Sir *Henry Goodrick*. My opinion is, that this bill is dangerous. This began the Barons wars; but in those great changes none of these cures were ever attempted. The possessor of the crown ought to be obeyed. When you abjure a government, you abjure your lands. A man cannot say, he will abjure against God's will. I am as free to serve this government, as I was forward to bring it in. This is an abjuration that I cannot say I can maintain: abjuration is a renunciation of all protection that can come to me. Though some men will swallow abjuration of the royal family, under a branch whereof we sit, those of the church of England will not do it. The utmost necessity made me break my oath to king James: it was utmost necessity, and those are terrible things. Upon the Revolution, gentlemen could not dispossess themselves of the obligations of former oaths. I will come closer,

* Brother to lord Cholmondeley, made cornet of horse in 1685; and on king William's accession, appointed a groom of his bed-chamber. He served in all the wars of that reign; and, at the battle of the Boyne, commanded the horse-grenadier guards. Also at the battle of Steenkirk, in 1692, when the king attacked the French army in their camp, he particularly distinguished himself, and was wounded. In 1697, he was appointed brigadier general. In 1702, he was constituted major-general, and governor of Tilbury Fort and Gravesend; and the next year he was declared lieutenant-general of horse. On the accession of George 1, he was continued in his posts, and soon afterwards he was created a peer of Ireland, by the title of lord Newburgh; as he was, in 1716, of England, by the same title. In 1724, on his brother's death, he succeeded to the title of earl of Cholmondeley, and, soon after, was appointed governor of Hull, &c. In 1727, he was made general of horse; and, in 1732, governor of Guernsey. He died in 1733.

* No mention is made of this in the Journal.

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this Oath is to renounce and abjure all allegiance to king James. The Oath of Allegiance to king William was generally taken all over England; and, of ten thousand in holy orders, not above 80 have refused it. Those who were for a regency, I did not join with. As Christians, we ought to bear with one another; but two of your members refused the Oath †; one whereof was a man of great integrity, and known honour in his country. That was a positive oath; but when it is a negation, the case is altered. In the Revolutions of Naples and Sicily, there was no oath given. It never took place among Christians, to make an Oath of Abjuration. This being so, what necessity is there of this oath for us, more than all the world besides? Is not your Oath of Allegiance sufficient? I cannot answer how a negative oath may garble the nation. I am a counsellor, and am bound by my oath to die for the honour and safety of the government. In so near a post to the king, I must do for his honour and safety, and the kingdom's. To give power to a justice of peace (as by this Bill) to send a man to jail, without bail, is the highest point of tyranny. Let it not be in our power to tyrannize over one another. I would take it into consideration to secure the government; but, in the mean time, to reject this bill.

Sir *John Guise.* You are told, 'That, in the Revolutions of Naples and Sicily, there was no Oath of Abjuration given.' None but have heard what the Sicilian Vespers were—Augustus Cæsar had a list of those who conspired against him. He would know, whether Lentulus and Antony were against him—Or whether a king James in Ireland. His business was, who had no right to the crown, to oblige people to join with him to enslave the rest. I have heard a lord speak of 'an original contract.' What have you done in this? If no contract be broken by king James, you know the consequence. If king James's going into France is in the nature of a demise, you know who must be king. If that come to be debated over again here, you may lay such stumbling blocks, that you may see enemies rise, with swords in their hands, before you know you have an enemy. It is said, they will submit; but it is because they see a greater power, when the Oaths come to be published. When I come to abjure, I will abjure; I have not forsworn myself. I am absolved from my oath, when it cannot be maintained. You will keep a reserve for king James, if he get the better; but I will either live or die with this government. If you will not own yourselves, will people own you?

Sir *Tho. Lee.* There are many things in the Bill fit to be altered and mended, that I do not like indeed; and I think it too large in putting in 'Ecclesiastical persons.' I think it fit, that those in employment and offices give security to the government. I am sorry there should be such an expectation of king James that men should not renounce him. We used to say that allegiance follows protection. As to the reverend clergy that took the Oaths, it seems to me but a repetition of the oaths; and I wonder that gentlemen, by the same reason, are not against the Oaths and the Test to be taken in every new office. The Oath of Abjuration was tendered to general Monk; he would not take it—It was imposed by a little party here, and a few crept in together, but was not imposed upon the generality of the kingdom. What was that Diana of the Covenant-Renunciation but a kind of abjuration? This is not so now in England, as gentlemen would seem to have it. I would have it so understood and declared, that we may provide against them and him by renouncing such obligation. This debate seems to me to be more necessary, by what I have heard, when I am told, that men in employment drink king James's health. As for new distinctions, what else were the Tests for, after the Oaths of Allegiance, whilst great men in power drew men into power? But their power sunk by the discountenance they gave to their old friends the Cavaliers, who might have been useful to them afterwards. What security can persons have, that obliging will not tie? The king shows you, that he is not ignorant of designs on foot of secret enemies. The way to have fewest enemies is the speediest discoveries; and that those in employment and trust in the government declare they have no expectation, no desire, of change in the government.

Mr. *Roberts.* There is a third thing, called interest, makes men stick to a government. I am attainted in Ireland. I came in with no opinion of this bill, and I am now confirmed, that you reject the bill.

Sir *Tho. Clarges.* The 27th of Dec. 1688 you attended on the prince of Orange, and thanked him for his Expedition. And then we asserted all our rights, and then made a tender of the crown, and the Oath of Allegiance we have all taken, which is a renunciation of king James; and it bears a just interpretation. Do you think the government is yet insecure? In your Act of Rights, you did declare him king, and swore allegiance, &c. and I think the Act of Recognition did rather weaken. Where you put a buttress, there the building is weak. What say the Jesuits? 'Let them alone, and they will fall out among themselves; and king James will come in:' and nothing will tend more to bring in king James than this bill. I am for the government, and I did take the Oaths conscientiously, and will. No ambiguous oath was ever taken; but when we come once to distinguish a title, then we have bill after bill, to explain we know not what. The short Oath of Allegiance was a good and a wise oath. The bills for Money are depending, and this comes to interrupt them! I humbly conclude, that this Bill may be rejected.

Sir *Tho. Littleton.* It had been a great deal more ingenuous to have brought these objec-

† Lord Fanshaw, and sir Henry Monson. See p. 253.

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tions upon the bringing in of the bill. The government being crazy, I would have buttresses to support it. The government was never asserted by the Churchmen, till Magdalen-College was touched. They have a notion in their heads of the Great Turk, that if they may be bashaws, they will swear allegiance to the Great Turk. If this bill will bring in a commonwealth, I am against it, and I cannot believe such a man (as Clarges) is in earnest, when he says so. We have had one Revolution, and, that we may not have another, I am for this bill.

Sir *John Lowther.* I speak now with great difficulty. My heart and judgment goes along with most part of this bill, and I am content to be a martyr for it: but I have a great deference to unity. Totally to reject this bill, after our votes are gone abroad of the first reading, may have no good effect. On the other side, to go against the grain of so many worthy gentlemen, who would live and die with the king, is inconvenient. We have the example of a man of great authority (lord Carmarthen). I would have it fortified with such authority. There are conspiracies among Protestants as well as Papists. I fear the oath taken to abjure king James is not for love of this king, but to abjure all kings. I would not put so great discouragement as totally to reject this bill, but you may model it. It may lie upon the table, or be referred to a private committee; but I would not instantly commit it to the whole house. Change the Abjuration into 'Not assisting king James.' He that agrees not to keep him out is not fit to be in the government; but I do not desire that to be imposed upon every body, but to own the government, and promise not to bring in king James. Consider the condition you will be left in; the king in Ireland; and, worse than all the rest, the government will be left precarious in the hands of people, whether they will lend Money for the Army or Fleet, and all may be lost; and they descant, 'That the parliament would never reject this bill, but for some uncertainty in the government; and we will never lend our money;' and the consequence may be, the Army will be upon free quarter, and the Navy not go out. Take it thus far into consideration; try if you can moderate the Bill to satisfy; and possibly, with a little pains, it may satisfy all persons.

Sir *Robert Howard.* I shall speak with all the deference to every body that differs from me, that is fit. I know not what Lowther means by his 'deference to a great man,' whom he names not. You are told, 'This renunciation is a new thing;' but church and state can never be safe without it. What is your religion, your allegiance, but a renunciation? The old thing you ever have done. What are your penal laws, and Test, but a renunciation? It is the whole government, and protection of church and state. I believe it in the peoples hearts already; and they may else renounce you, and go into a commonwealth. I would not try whether we have enemies too many, and friends too few. I would rather know my fate, than silently live under I know not what. Consider what renunciation is; you remove a king, and one may be king again. This being so, you have more cause now than ever to think of a renunciation. The king goes into Ireland; and if king James should come here, and take possession, this will take that off from those that think themselves yet free to join with him. The people who generally lend money in the Exchequer, are not people who expect that king James will pay them again. A renunciation of all hopes of king James is the subject of the Bill.

Mr. *Ettrick.* When this bill is laid aside, you may order another; but not for justices of the peace to imprison when they please. I can readily come up to this. I hear the Church mentioned: I fear it may be a Church-trap. I should have been glad to see 'the king's heirs and successors' in the bill, that monarchy may be supported by it. When the Rump-Parliament came to be in the feeblest condition, then came the Abjuration of Charles 2.

Mr. *Powle,* Master of the Rolls. Nothing is more natural among private persons, and the government is to take the most natural way to preserve itself; and this is nothing but a zealous support with vigour; and therefore not only by punishments, but the way has been taken by oaths to preserve the government. This oath is to no other end than to respect those who are to be employed in the government: It is not universal, to peep into mens consciences that live peaceably, but that they who are to act ought to be zealous in it. I will not go so far back as the wars of York and Lancaster. The Oath of Supremacy and Allegiance was perfectly an abjuration of the pope, and all his power, in Henry 8th's Reformation, when there was no prospect of opposition; but when there are pretended titles against the present government, it is reasonable to make men renounce them. 'A king *de facto,* and a king *de jure*'—whoever mentions that *de facto* implies another *de jure.* There are two allegiances in that case, and therefore fit to stick to one. To obey the king *de facto,* is no other than to obey till I have power to rebel. To let them go abroad, and scatter this fire, you will restrain! I should be very sparing to impose this oath on any but in offices, but to have a discretionary power to give it. All governments do it; and you must do this, if you will preserve it.

Sir *Joseph Williamson.* It has been long known to many gentlemen, that I have as much zeal for the Protestant religion as any body. It is unfortunate, when things are brought on suddenly, by surprize. The question for this bill came in in an angry time of day, when you were about the City Address. I shall ever be for keeping off from heats and parties. I cannot but observe, that it came in upon resentment. I went out for the Ad-

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dress, and against this Bill; but I see plainly, it resents matter of party and distinction; and, however well intended, it seems to be designed against one sort of persons. I take it, the Church of England is as sure to this government as any other part of it. It is their interest and preservation to despair of possibility of living under a popish king. None did their duties with more courage than that body of men, nor suffered more deeply. The Popish party supported the lowest sort of men (the Quakers) to take them into their party against the Church of England. I say to this bill, the scope in consequence of it may weaken hands; it is not necessary, and therefore not advisable. I would have a day set to secure the government against all ill-affected persons. Now the king is going for Ireland, we have no account of the Militia. Seeing it is not done elsewhere, I move for a day to consider it, 'to secure the Government against all ill-affected persons.'

Mr. Comptroller *Wharton*. What fell from Williamson calls me up. It must touch upon me. This Bill was moved for by one and another; and I thought fit to follow it; and you might have rejected it upon the first motion. We are in an actual war against one that was king, and some hope may be. This bill is not against the Church of England. If any be against the government, and this king, it is that party, be it where it will, against which the bill is intended. If it be left on your books, that this bill is rejected, I hope those against it will not be ashamed to let their names go abroad.

The question for committing the Bill passed in the negative, 192 to 178: and the question for rejecting it passed in the affirmative, 192 to 165.*

Debate on securing the Government, and on suspending the Habeas Corpus Act.] April 28. Sir *Joseph Williamson*. That power I move for now, was formerly used and exercised in the government; and if there be not some extraordinary provision made, on extraordinary

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* "The greatest debate in this session was concerning a Bill, that was brought into the house of commons, requiring all their majesties subjects to abjure the late king James, under pain of imprisonment. Some of the Tories were at first for it, as were all the Whigs. The clergy were excepted out of it, to soften the opposition that might be made. But still the main body of the Tories declared, they would never take any such oath; and therefore opposed every step that was made in it with a great vehemence: they insisted much on this, that when the government was settled, oaths were made to be the ties of the subject to it; and that all new impositions were a breach made on that, which might be called the original contract of the present settlement. That things of that kind ought to be fixed and certain, and not mutable and endless. That by the same reason, that the abjuration was now proposed, another oath might be prepared every year; and every party, that prevailed in parliament, would bring in some discriminating oath or test, such as could only be taken by those of their own side; and thus the largeness and equality of a government would be lost, and contracted into a faction. On the other side it was urged, that this was only intended to be a security to the government during the war; for in such a time it seemed necessary, that all, who were employed by the government, should give it all possible security. That it was apparent, that the comprehensive words in the oaths of allegiance had given occasion to much equivocation; many, who had taken them, having declared, as some had done in print, that they considered themselves as bound by the oaths only while the king continued in peaceable possession; but not to assist or support his title, if it was attacked or shaken. That it was therefore necessary, that men in public trusts should be brought under stricter ties. The Abjuration was debated in both houses at the same time. The Whigs pressed the king to set it forward; alledging, that every one, who took it, would look on himself as unpardonable, and so would serve him with the more zeal and fidelity; whereas those, who thought the right to the crown to be still in king James, might perhaps serve faithfully as long as the government stood firm; but as they still kept measures with the other side, to whom they knew they would be always welcome, so they would never act with that life and zeal, which the present state of affairs required. At the same time the Tories were as earnest in pressing the king to stop the farther progress of those debates; that much time was already lost in them; and it was evident, that much more must be lost, if it was intended to carry it on; since so many branches of this bill, and so many incidents that arose upon the subject of it, would give occasion to much heat and contest; that it was a doubt, whether it would be carried, after all the time which was bestowed upon it, or not: that those who opposed it, would grow sullen, and oppose every thing else that was moved for the king's service; and that, if it should be carried, it would put the king again into the hands of the Whigs, who would immediately return to their old practices against the prerogative; and that it would drive many into king James's party, who might otherwise adhere firmly to his majesty, or at least be neutral. These reasons prevailed with the king to order an intimation to be given in the house of commons, that he desired they would let that debate fall, and go to other matters, that were more pressing. This gave a new disgust to the Whigs, but was very acceptable to the Tories; and it quickened the advances of money upon the funds that were given. It had indeed a very ill effect abroad; for both friends and enemies looked on it as a sign of a great declension of the king's interest with his people. And his majesty's interposing to stop further

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occasions, to lodge such a trust, for some few months, against such persons as shall be justly suspected to conspire against the government, to support the government that has redeemed us from the danger of all our rights, secular and divine, we are to despair for tolerable terms to live and breathe in, without such helps. No man will use that for his constant diet, that is his physic when indisposed; and I foresee that such a censure may be made upon this. In all parliaments, they have found it necessary to lodge a trust in the crown: as when in Henry 8th's time there was a power *pro interim*, by proclamation, &c. and a disposing of the whole succession of the crown, in the recognition of queen Elizabeth, it is taken notice of, 'That that law of Henry 8 shall be a law in the government for ever.' Let no gentleman think hardly of this motion: I do not doubt but you will have a return suitable to the trust. My motion is, (and perfectly for righting myself, and the gentlemen that voted with me on Saturday, that we lie under no misconstruction without doors,)

'That a power, for some few months, be in the Crown to commit persons for treasonable correspondence against king William with king James, without bail.'

Sir *John Thompson.* If nothing but the danger of the people will be the security of the crown, I fear we are in an ill condition. You did not give power in the privy-counsel for six to commit without bail: yet they had the confidence, the parliament sitting, to imprison one of your members (lord Danby.) Give me time, and my family, to go out of England, and pass this Act moved for with all my heart.

Sir *Edw. Hussey.* If there be such counsellors about the king, as to advise him to bring over lord Dunbarton's regiment;* and if there be such lords about the king, as say, 'The Act of Recognition is neither good-sense nor reason:' I desire not to trust such with so great a power as is moved for.

Sir *Wm. Whitlock.* I never thought of such a motion to be made; and I hope that no Englishman will give his consent to it. I will not trust the government with six privy-counsellors, nor six-score. It is strange that the government of England should be brought to that pass, to be inconsistent with the safety of the people.

Sir *Henry Goodrick.* There was a bill brought in to secure the government, by an Oath of Abjuration, &c. It is now proposed that, after all the informations of caballing against the government, both by Papists, and worse, there seems something wanting in the law to secure them. Let gentlemen, who were engaged in the last Revolution, consider, if king James had pursued the advice, to have sent for the heads of parties against him, and clapped them up, where had the Revolution been? We have informations out of Lancashire, a chain of intelligence of persons plotting against the government; but they are all gone, the birds are flown: and the king going now upon a hazardous expedition, there will be a great check upon proceedings, without this bill, for the queen to govern in his absence. If your Militia be in so ill a condition, that they have no arms nor ammunition, what remedy is there but this motion for suspension of the Habeas Corpus act, but for a few months, not perpetual, nor final? My request to the house is, as you tender the safety of all that is dear to you, that such a power may be vested. I, as an Englishman, ask it, and dare ask it.

Mr. *Harcourt.* As we are sent here to preserve the liberties of England, so there is no greater security for them than this Act, and I think I have acquitted my trust very ill, if I give it up; a 'security,' a member told you (Clarges) you had struggled many years for, and it is that now we contend for. It has been already suspended three times, and now you will do it a fourth! Suspending it thus

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debates in the matter, was represented as an artifice only, to save the affront of its being rejected. The earl of Shrewsbury was at the head of those, who pressed the Abjuration most; and therefore, upon this change of counsels, thought he could not serve the king longer with reputation or success. He saw the Whigs, by using his majesty ill, were driving him into the hands of the Tories; and he thought, that these would serve the king with more zeal, if he left his post. Besides, the credit that the marquis of Carmarthen had gained, was not easy to him. For these reasons he resolved to deliver up the seals as secretary of state. The king sent Dr. Tillotson, and all those who had most credit with the earl, to divert him from his resolution; but all was to no purpose. The agitation of mind which this gave his lordship, threw him into a fever, that almost cost him his life. The king pressed him to keep the seals till his return from Ireland, though he should not act as secretary; but he could not be prevailed upon.—The debate upon the Abjuration lasted longer in the house of lords. It had some variation from that which was proposed in the commons, and was properly an oath of a special fidelity to the king in opposition to king James. The Tories offered, in bar to this, a negative engagement against assisting king James, or any of his instruments, knowing them to be such, with severe penalties on such as should refuse it. In opposition to this, it was said, that this was only an expedient to secure all king James's party, whatever should happen, since it left them the intire merit of being still in his interests, and only restrained them from putting any thing to hazard for him. The house was so near an equality in every division, that what was gained in one day, was lost in the next; and by the heat and length of those debates the session continued till June." Tindal.

* This regiment had been sent over to Holland, for being concerned in a mutiny.

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upon every occasion will, at last, amount to a repeal. At this particular time, now we have an Army of Foreigners in our bowels, we should rather increase our liberties than diminish them.

Sir *Christ. Musgrave.* There was a time when the subject was removed from one prison to another, and the act evaded, though at the last he obtained this act, which makes a penalty upon the government that refused it. Are we entrusted with the people's liberties, and shall we thus part with them? If there be a suspicion upon any man of disturbing the government, the law justifies clapping him up. There is no end of this; the nation in fear of one man, and another that is disaffected to the government, is clapped up in prison to endanger his health, and ruin his fortune, and destroy his reputation in the government—Who will deal with them? I will not, I assure you. We have laid a load upon our estates, and now to lay a weight upon our liberties! No; I am not for that. That government is precarious that must be supported by taking away the liberty of the subject.

Sir *Robert Rich.* I was one that vowed never to give my consent to the suspending that Act; while I live, I shall ever make it my darling. It was thought then necessary when we parted with it, but those that were to be clapped up by it, walked in the court of Requests, and nothing was said to them. I am subject to the law, but would have no law strained upon me.

Col. *Granville.* I am surprised to hear a gentleman so forward, t'other day, to lodge a power in two justices of the peace to give the Oath of Abjuration, and now not to give this power to the king's privy-council. If men will not renounce king James, there ought to be a power to secure us from known enemies, and because I would not put arbitrary power into any man's hand, I shall propose an Oath now, which no man will refuse; 'To swear to king William and queen Mary, their heirs and successors, according to the Act of Settlement the last parliament, against king James, and his adherents.' We have found the name and effect of tyrannical king James, and I hope we shall defend ourselves from the return of it.

Sir *Robert Rich.* I am one of those who make no difference to swear allegiance to this king, and to renounce king James; but as to imprisonment without bail, I intended not to come up to that then, nor ever will.

Sir *John Lowther.* I hope you will believe that I will do nothing to destroy the liberties of the nation; but am for suspending any law, when the safety of the nation depends upon it. I will not say where the fault lies, that the nation is under these exigencies, but one reason is, that Judgments are not united, and, where there are divisions, it is impossible the public service can go on. Where a man is willing to sacrifice all, he is never so secure but he may have the censure of one or other, though I am satisfied in my conscience I do not deserve it. The government is in necessity, and at a stop. There is Credit given, but, after all, when we do that which destroys it, that Credit will be ineffectual. What I told you before was, that whether they judge right or wrong, if there be designs, and if any thing here seems to countenance the designs of king James, they will not lend Money, and it will be impossible to defend ourselves. The Oath of Abjuration is too extensive, and might have been mended, and since, nothing comes to supply it, and the Vote is gone over all England. Every body abroad makes not the judgment of it that you do; and, if you tell them you had no such meaning, but to support the government, and tell them all the arguments; that the house of commons wanted precedents to do this, &c. but by their representatives in the house of commons, that goes abroad as the honest meaning of the gentlemen here—This being your case, and as the government must be carried on with Credit, I shall offer to propose something for your security; that something may be done to those we represent abroad, as well as our own safety within these walls. Every man ought to swear to be true to the government, and not to take up arms against it. Time, place, and circumstances, give the force to actions. All this considered, I desire you will give leave for such a Bill, to impower the king to imprison such as he suspects, and an Oath to all in authority, not to aid king James.

Sir *Edmund Jennings.* I was of king James's parliament, and the first that took exceptions against his Speech. I was against the Bill of Abjuration on Saturday, and for one reason, though not mentioned, and it was for the sake of the Dissenters. How could it be supposed that they should take such an oath, quite contrary to their Address to king James before? And they will be as ready to take an oath against king William upon occasion. It is the monarchy that is aimed at. I am for a bill of this nature, and an Oath, as has been moved.

Sir *Edw. Seymour.* The debate now is the effect of that on Saturday. I did not like the proposition then, and do as little affect this now. I shall be glad to return their kindness, and speak, some of their arguments to-day. One would repeal the Habeas Corpus Act, and have another Oath—I take it only to be a way to make way for dispensing with the Habeas Corpus Act. You have been presented with several reasons for it; though gentlemen did so mistrust themselves, that they did not name them. The liberty of the subject is always under the care of the law, not to be imprisoned without a cause. A lord anciently could not imprison his bondman without cause, and our ancestors were very improvident, if they left others the liberty of our persons; for the same necessity opens a door for my goods and lands, as for my person—Here is an expedient to prevent assisting king James. Can it be imagined either of Papists, or those of particular dependencies? As for the Papists, the law against them already is so far from perse-

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cution, that they are under the favour of the laws: and as for those of dependencies under that unfortunate prince, it is strange they should now, that are under no reward but a halter. You must like the security where it is—I am glad sending us to jail is an Abdication of that misfortune. What has risen from it, but a necessity of taking up salt-petre at their own rates; to pass through mens grounds with the guards, &c. against their consent, to London, and the next to go to prison? We are for Abjuration one day, and prepare Heads for it, and give our Votes against it the next. Can I have any mercy from king James for entering into the Exeter Association? Yet now I can scarce be cleared from being a Jacobite. Either a Sheerness Plot, or a Cheshire accusation (Maynwaring, see p. 597.) It may happen, that a privy-counsellor may owe me ill will, and imprison me by this power. Is this the way to pay debts, or to get security? I think, by suspending the Habeas Corpus Act, all our liberties have been lain with three times already: make her not a common strumpet.

Col. *Birch.* I am an ancient man, and I believe you will think me subject to jealousy. I had many a thought in my head on Saturday, and you shall hear some of them presently. This power (moved for) is for the king, and some choice counsellors. How has this grown a hard game before you, by some of great wisdom at the beginning of this game, else things could never go as they did in Ireland and at sea! I waited, and knew the conclusion would unriddle this business to you and myself. Some, when we parted last, were of my opinion, that if things were managed a second year, as we had done the first, we should not have a third. If we had gone in time into Ireland, it had been reduced without fighting; there was no way to bring in king James; and presently then, in the midst of this great business, to prorogue the parliament! Then, as to the dissolution, this was done by the choice council; and what is to be done now? There is a great deal of tenderness and earnestness for the king to go into Ireland, and we are as ready for king James to come hither, as for king William to go thither. It must be the fidelity of the privy council that you must trust, and pray how has it been showed? The Army is to come out of Flanders, and those white boys are to be our security, and those that will, let them take it—I do not doubt, but the gentlemen that make you this motion, will propose something more to your satisfaction. I shall never be brought to an opinion to trust those counsellors who have so ill acquitted themselves. Pray throw out this motion by a question.

Sir *Tho. Clarges.* The truth is, the nation is in a sad condition, but I think not such a dissatisfaction in it, as to have no money lent. They in London have offered to lend as far as your Fund will bear. I do think the unsuccessful measures in the government will make despondency in lenders. I made a proposition in the last parliament (it was made ridiculous, but it was approved afterwards) to be in the field before king James, and then we had been masters of Dublin. I do not believe we are in such security, as not to make provision for some such thing as this Suspension of the Habeas Corpus Act. Our distraction is so great, and our condition so doubtful, I know not what to move. In queen Elizabeth's time, the Pope's Bulls were set up, and the queen of Scots' party were conspiring—Secure the government, and by that example do something for the preservation of the government.

Sir *Tho. Lee.* I am afraid we are going out of the way of parliament. Let a gentleman move what he will, when the debate grows to a head, out of that you must collect a question; all are desirous that you should state a question, but you may have liberty to alter it. I am sorry to hear the Funds will bear no more than 220,000*l.* That the Funds are not full! I could wish there are no worse reasons why men should not lend money.

Mr. *Hampden.* I am sorry for these heats. Once an unhappy nation, the Jews, were cutting one another's throats, when their enemies were at their gates. Sometimes we are for swearing, at other times not, and in confusion. I could not be against the effect of the motion, for some security to the government: 'No, we will not do that, but we will throw this question out of doors, and have no Suspension of the Habeas Corpus Act.' I think that Act the most sacred we have; but I have seen great infringements of that act, and there have been ways to evade it; as, a man to be bailed at 4,000*l.* and I ask 40,000*l.* These have been ways found out to break it. I would have none of these: I am for the thing; but what will be the meaning of your vote? I know, letters have been taken of treasonable Correspondence; but it is against my conscience, for men to be put to death, for what they might in another reign, some time ago. Had you not better be at liberty to propose any thing, than have a thing lie in the way upon every debate? Before you adjourn, pray consider of securing the government under the king and queen.

Mr. *Ettrick.* In the last parliament, I bore my testimony against this Suspension, and expressed myself against it. Your first vote was, not to suspend the Habeas Corpus; therefore put a question that no man can differ from, and I do not doubt but your liberty may be preserved, and the nation's.

Col. *Granville.* That the refusal of the Renunciation, &c. may not be resented abroad, I hope nobody will be so angry as to let the government fall. If it be preserved, I care not in whose hands, if I shall reap the benefit, though I had not the honour to contribute to it.

April 28. p. m. The house attended his majesty, and presented their humble Thanks for the great care he has expressed of the Church of England, in the late Alterations he has made in the Lieutenancy of the city of London. To which his majesty was pleased to answer (as reported next day by the Speaker,) "Gen-

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tlemen, It shall be always my endeavour to employ such persons as shall be most serviceable to the Church and State."

April 29. The house went into a grand committee, on securing the Government under king William and queen Mary against the late king James, and all his Adherents.

Sir *Edm. Jennings*. I would have the Militia considered, that there may be some way to call them together for some farther time; and as to the papists, that they stir not from their houses.

Serjeant *Maynard*. If you would defend yourselves from danger, consider what that danger is, and the cause of that danger. The Militia is in very bad condition. You have a great enemy, the French king, and all the malice imaginable against you from a potent adversary. The Oath is but security to perform our duty; but, when conquered, it is no more our duty; it would make a mad world, if otherwise. I would have an Oath, 'not to hear or know any thing prejudicial to the present king or government, without discovering it to some privy-counsellor, and to have no correspondence or pension from the French king.'

Col. *Granville*. When I heard the order of the day read, I thought our safety so much concerned, that, instead of breaking a jest, (Napier) every body would rather contribute to the general security. The order of the day tells you of one of your enemies, your chiefest, king James. The business of the day is to find out his adherents. For ought I know, they are here, and there, and amongst us; perhaps in the very Militia. These two or three days debates convince me, that there is no Test great enough, but wherein king James is named; and those that will not declare against him, I shall always think enemies; and I hope, now we are rid of him, to keep ourselves upon a protestant foundation. Let this be tendered to people suspected, not with that latitude, that justices of the peace may tender it to whom they please; but that the queen, in the king's absence, may cause it to be tendered where there is just cause to suspect. When a man has once given security to the government, he cares not how often he repeats it. The business of the day is, to fortify ourselves against our enemies, that papists give security to the government, and that protestants go not about the streets to corrupt people against the government. I therefore move 'for a Test against king James.'

Sir *John Thompson*. My motion was, 'To take the State of the Nation into consideration;' 90,000 men, that are their own masters, will make every body afraid of them.

Sir *Joseph Williamson*. This day looks melancholy; many worthy and judicious members sit silent, and are not helpful. It is moved 'To consider the State of the Nation,' which is not only the greatest, but most powerful; but the greatest of all misfortunes is, to be divided at home. If we do not discover before they begin insurrections, it will be too late to suppress them. I hope for better effects abroad, if we do something of this nature, a tye between sovereign and people suitable to the great Revolution. I wonder that the Oaths of Allegiance we take to the crown, did not tye people to defend the crown, and that might answer the intention of the government. I would take in the Quakers; they were in with king James, and are factors for him still. I would have them protest and declare, subscribe and renounce all correspondence with the king's enemies, and particularly with king James, and the French king, and all their adherents; and I wonder how this was left out in the last Oath. Do something of this in the first place, and then in the Militia.

Resolved, "That it is the opinion of this committee, That as one Head of a Bill for securing the Government, &c. by order from their majesties, the lord-lieutenants and deputy-lieutenants be impowered to draw together the Militia with a month's pay notwithstanding the month's pay already advanced to the Militia be not yet reimbursed; and for a longer time than the law already allows. 2. That as another Head, all Papists, or reputed Papists, be obliged forthwith to repair to and continue at their respective dwellings; and not to depart from thence above the distance of miles, without licence; and that, if they be found at a greater distance, they be taken to be Papists convict, to all intents and purposes whatsoever. 3. That, as another Head, a Test, or Declaration of Fidelity to the Government under their present majesties, against the late king James, and all his adherents, and all other enemies to the present government, as it is now established in Church and State, be enjoined to be made, repeated, and subscribed by all persons above 16 years of age."—Which being reported, were agreed to by the house; and a Bill was ordered to be brought in accordingly *.

Debate on the Regency Bill.] April 30. An ingrossed Bill from the lords, for the exercise of the Government by her majesty, in the king's absence, commonly called "the Regency-Bill," was read the second time.

Mr. *Hampden*. This bill is of great importance, and of great necessity. Something, and something of this purpose, must be. This is to be done, and very hard to be done. If the bill

* "The Tories, aware that the rejection of the Oath of Abjuration would be made a pretext for infusing suspicions of their loyalty into the minds of the people, embraced the first opportunity to avert them, by proposing other measures for the security of the present government. The Suspension of the Habeas Corpus, the most obvious and effectual plan for this end, afforded their opponents advantages of argument, which they were unable to defeat by influence alone; they therefore had recourse to such moderate resolutions as were carried by the approbation of every party." Somerville.

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go away as it is, I doubt it will be a little troublesome. The king gives out the Commissions to the justices of the peace. If the administration of the government be solely in the queen, will those old commissions stand in force? Will it not be in the nature of a demise, a kind of *interregnum*, till all the commissions of England be renewed? They are not signed by the king and queen, but signed only by the king. I know not which way to offer it to you, but I doubt it will make a chasm in your affairs. If this be worthy your consideration, I hope gentlemen will speak to it.

Serjeant *Maynard.* It is worthy our consideration, what council the king will leave with the queen. If the Bill pass as it is, all the justices of the peace in England are none. I think, for my part, that they are determined. There must be some provision, that those commissioners do not determine. All the regal power now is acted in the name of the king and queen; as this Act is now penned, how can any man distinguish those in the whole regal government? Another thing;—in the king's absence, do you take all power from the king, that he can do nothing but by commission from the queen? This is of vast consequence, in a hot war with a mighty power, and all that is done in the name of king James. This makes the king no king, and queen no queen.

Serjeant *Tremaine.* I have looked upon this Bill to be of great consequence; and great care must be taken that we have some security in the king's absence. There are some objections against it. I find the Bill says, 'The regal government of England, and dominions thereunto belonging, shall be in the queen.' By this it is a great doubt, when the king comes into Ireland, whether he has any power at all in Ireland. Ireland is but an appendage to England, and no other person can have it but the queen; so that if the king comes into Ireland, that he may be in a capacity to do something, it will be your wisdom to put it out of all doubt. The Bill says, 'The administration shall be in the queen;' if she dies what then shall become of the government? Here will be a failure, and a stop.

Sir *Rob. Sawyer.* All that objection may be easily obviated, leaving out the word 'Territories;' when it comes to England and the plantations, 'Territories' make it very doubtful. Then there is another objection, 'What if the queen die?' But that runs to whomsoever is made *Custos Regni*; and, no doubt, there is a ceasure of the administration. A *Custos Regni* has been settled by act of parliament; and the same objection made then as now. Another objection is made, 'That the commissions in the king's name are all determined;' of that there is no colour. All commissions are from the king and queen; if once under the seal, it is a sufficient authority for all persons to act. The *Custos Regni* never removed any commissions; they all run in the king's name. The administration is nothing but to make the great seal speak. If you make that alteration I mentioned, I believe there will be no dispute.

Sir *John Guise.* It is absolutely necessary, that this bill be committed. I think Sawyer does not take it right; and possibly I may think as well of some, as of some others. I should be glad to hear, from the learned counsel, whether these commissions cease, or not?

Earl of *Ranelagh.* When the king is in Ireland, he gives commissions as king of England, not as general of the army, surely.

Col. *Birch.* To my mean capacity, this is a most dangerous bill, and I do not know who is safe under it. The king's going to Ireland is another thing than if he had gone the 10th of March. The difficulty and danger is greater, and such an one, as we stand in relation to our own differences, and the power against us. We have a brave army, a gallant army; but so disappointed, that I fear the consequence: and should the king be in Ireland, and cannot come over to us, upon occasion, what condition are we in! Your commissions voided all in a lump; and who shall those commissioners be that must turn the whole in the king's absence? From what has been done, you may guess what will be done. By what has passed already, I am of opinion, that the Bill is impracticable, and I would lay it aside.

Serjeant *Blencoe.* It is said, 'The king leaving the kingdom, all commissions cease.' In answer to voiding the commissions, it is said, 'That those commissions continue:' But when the king is gone, it determines that power. All those authorities derived from those commissions cease, because the authorities cease.

Mr. *Finch.* I stand up for commitment of the bill. I desire those gentlemen to declare, whether the queen be declared a subject by this bill.

Sir *Rob. Howard.* I think you may declare the king as well no king, by the bill.

Sir *Tho. Lee.* All agree, that it will be a great difficulty. I consider this law of transferring the administration; it is a new word, but will carry all the rights along with it, as if the crown had descended. You are told of a saving for Ireland; but there must be another saving; for if Ireland be not reduced this summer, we are all miserable. If the king can find it expedient not to go, it would be very happy; but to reduce him to the necessity not to go, nor to stay! I think, if the king should have advice of things from France and England, when in Ireland, I see no power, by the bill, that he has of one ship. I would see, whether the long robe can bring this to the ancient custom of Regency. What if this bill had been turned to enable the king to make a *Custos* by parliament? This is a hint to the long robe that I dare not venture upon. I would not interfere with the king's measures, which, I believe, are taken with great deliberation; therefore go into a committee to-morrow.—The Bill was ordered to be committed.

Ordered, "That Mr. Rowe (member for St.

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Michael's) have notice to attend this house, in his place, on Friday the 2d of May."*

May 1. The house went into a grand committee on the Regency Bill.

Mr. Solicitor *Somers.* 12 Edw. 3, the duke of Cornwall was Custos Regni—The duke of Bedford, the king's brother, was Custos, and left till farther order. 33 Henry 6, Custos by act of parliament, with several other precedents. 15 Edw. 4, in his expedition into France, Edward, prince of Wales, was Custos during his absence, and till farther order. 13 Henry 7, the king constitutes, in his absence, queen Catherine *Gubernatrix Regni.* 14 James 1, in his absence, till farther order, the privy-council were constituted, and no name given in the commission, but to take care of the king's children and affairs. In Ch. 1's time, the council were impowered much as in king James's time, all determinable *in absentiâ nostrâ in partibus transmarinis, et donec redier:* all those powers to be exercised by a particular council. In Edw. 3's time, three counsellors mentioned. In Henry 8, *Gubernatrix Regni,* it was expressly appointed what act she shall do by her own power, and what by her council. These I lay before you, and make what use of them you please. This is a new case, and like none of those I have mentioned; and we are in a government not a year old. Any thing you do of this nature will be of great consequence; and, as this case is, to consider extreme well what is done. It is discoursed of abroad, of a Commonwealth, and we should be very considerate in divesting and divesting. The necessity of a change should be obvious and apparent to the world; so suitable and invincible, that it should always carry its own excuse along with it. I heard it mentioned yesterday, 'That all commissions do determine upon this Regency:' but if it be a doubt, it is your great concern to obviate it. If some, in the king's absence, should refuse to act, and others to obey, it will be of great consequence to the government; and some question will lie as to the continuation of the parliament: but, as to the king's exclusion of all power, during this regency, it was proposed, if you leave out some words, 'it would be a cure, if the words ended there at dominions, &c.' Does it not carry all the places annexed to England? Suppose any exemption to Ireland, that it should not extend to it, yet all doubts are not obviated. The king in Ireland, and the whole administration of the queen here. —Whatever necessity, or orders, are but letters of intimation from one to another. If the king send ships from Ireland, they have no sort of authority to serve out of Ireland. These are difficulties. Give me leave to hint some things: the bill says, 'As often as the king shall be out of England, &c.' I will suppose they go to be crowned in Scotland, all their power ceases; they are no sooner on Scotch ground, but all regal power ceases; there should be some express Clause for resuming their authority. It is a nice distinction to separate regal power from authority; and since there are some opinions in the world, that the king is only *de facto*—You have declared him king of right—But if you look on printed books abroad, he is made only king *de facto*, and king in possession—I took the oath in another sense, whatever others did. Perhaps some disaffected persons may not yet appear. If you place it in the queen, place it so clear, that there may be no doubt.

Sir *John Lowther.* After the difficulties you have heard from the learned gentlemen, no wonder I should doubt; but when we are in a plain, to run round and miss the way we may wonder. We are misled by the Bill, so far mistaken by the lords, that if we pursue it, we shall be led into invincible difficulties. You are told, 'That as this bill is penned, commissions of the peace cease.' I offer, that, instead of the enacting part, you will declare that all the queen does, in absence of the king, shall be in the same force as if the king executed it—That by the government beyond the sea, the ships are not restrained in port, as well as in Ireland—One difficulty only, of several commands; but there will be such a deference to the king's resolutions, that he will always be obeyed. And that, on the king's return, the queen's power ceases, I think will be no doubt—All acts done by her majesty to be of equal force as if done by the king.

Sir *Wm. Pulteney.* The more I have thought of this bill, the less I have understood it. I will not dispute what an act of parliament can do. It may have some resemblance of the great power of the world; it may create, and uncreate. It may make the moon shine, for ought I know—But we have the case of lieutenants, guardians, and Custodes Regni, but that is not our case. It was never before in the world. Here are a king and queen, and a king invested with regal power, and you divest him, and put it into the queen. The king can take no notice of what she does here. In the queen is the regal power, as our queen can or could do; she may dissolve this parliament, raise an army, set out a fleet. I know not how to qualify these things, but I see terrible consequences. When an act of parliament comes to terminate his power, I know not how that will operate on all commissions. I know not but some men may have a strange notion, when the king is gone, that it is a resignation of the crown. A king and queen of England, and not in England, will be a strange composition. What authority will there be to send ships out of Ireland? Though I think it of mighty advantage that the king go into Ireland, yet this bill is of so strange a composition to come from the lords, and the judges there, that this will have many more consequences than I can enumerate. My motion must be this, to take three or four days time to consider of it.

* On a complaint of sir Edward Seymour. See the day, p. 619.

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Sir *Robert Sawyer.* That it is necessary that the government be left somewhere, all agree; and I cannot think any way but by something in the queen's hands. You have been told of precedents. That of Hen. 6. is not of this nature; for the power of Custos Regni is well known. In some acts of parliament, their power was limited. The Custos was but a delegate of the king's; though he might do acts as king in such exigencies, yet he was excluded the king's power. The king cannot delegate his power, because the king and queen must not give this power away, but by act of parliament. It is not designed to exclude the exercise from the king, either in Ireland or France, but that there must not be a defect of the administration, during the king's absence. The crown and regal authority are vested in the king and queen. Though the king issues out the proclamation, they are in the name of the king and queen.

Mr. *Pelham.* Seeing the long robe are so full of doubts, we may very well, and they will not inform us. I move to let the bill lie upon the table till this day sevennight.

Serjeant *Maynard.* This noble lady, the queen, has so demeaned herself, that there is not one man nor woman but will trust her. By the former act, the administration of the government was solely in the king, and now by this in another, exclusive. No wise man will trust where he cannot remedy. The precedents spoken of are like making a map of a country which we have never seen. There was a Custos, but limited to some things, not without counsellors, and they named; but as for the learned gentleman (Sawyer) I am sorry I seldom agree with him in the house. Thomas Aquinas brought religion to nothing by distinctions. If this commission be granted by authority, does not the former authority determine? Being derivative from it, the king has it no more, it is in the queen. All that is done to us for our religion and properties to be put upon a moot point on a sudden! Let us consider of it, and God direct us! We are fallen into a wilderness entangled by our enemies; God send us well out of it! Many hold themselves not at all bound to king William. Queen Elizabeth was a young woman, yet conquered the greatest prince in Europe. No man can wish better to the common-wealth than I do; if that stand, I care not what becomes of me. The king to have power in Ireland, and none here! The thing is so great, that I am upon my knees lest we should be swallowed up by enemies, or betrayed by our friends.

Mr. *Harcourt.* The king having declared his resolution to go into Ireland, it is our duty to help him thither. The king has chosen the queen for the administration of the government in his absence. I am not for putting her under guardianship, nor for putting her under council. She may sway the sceptre, and I know not why she should not have the power.

Sir *Tho. Littleton.* It is possible that you are not so ready to determine a thing of this consequence. You have heard a great many objections made; I cannot pretend to answer them. You have had a motion to adjourn the debate till a farther time; but if you consider, it will make a great alteration, the government being but very young, and not very strong.

Sir *Tho. Clarges.* If report be true, the difficulties in Ireland are not so great as apprehended. I hope, that, if there be a necessity of the king's going, that necessity may be explained. The bill is conditional, if the king should go. I would not be left here without some provision for the public peace. I would not have the debate put off, till I know not when, nor for I know not what. If the objections be not cured, the king has no power when in Ireland. But the great difficulty is, if the king be not master of Ireland this summer, we shall not hope to keep England long. If the French king once gets the ports of Ireland, we shall not send out a cock-boat. Let us not, by putting the debate off, make the difficulty so great, that the king cannot go at all, but sit *de diem in diem*, till we have settled the thing.

Mr. *Harbord.* I am amazed to see us handle such indifferent things, and let the government sink. I will lay it open plainly to you; though, I confess, the maxims of king Charles 2's government are still apt to be misrepresented, for what a man shall say here, as I have been. But for an Account of Ireland, why in such a condition? The troops are not able to march; officers are not paid since the 1st of Sept. last; most are behind-hand of subsistence money; to the Army 80,000*l.* due. I have laid it open to the commissioners of the treasury, and they cannot do it. If they have not suddenly 200,000*l.* in Ireland, nothing can be done there. If you do nothing now, it will be too late to think on it.

Sir *Edw. Hussey.* I take the king to be no king after this bill is passed. It is no man's intention to have the king put upon another Abdication; if he has a mind to another abdication, those near him, I hope, will acquaint the house, for the preservation of the monarchy and church. I would have a week's time at least to consider of it.

Sir *Edw. Norris.* If the king should die in this expedition, and the queen be regent, what if, out of duty to her father, if he land, she should not oppose him?

Sir *Edw. Seymour.* The methods of this debate confirm me in what I thought, when we first entered into it; that there would be so many difficulties in it, as would not easily be digestible. You find, by the debate, how little the thing is intelligible. If it be no more, when it has passed both houses, I need not tell you the consequence. These considerations are sufficient to put it off for some time. I would not have it too long, but put it off to Monday.—Which was ordered.

Debate on sir E. Seymour's Charge against Mr. Rowe for dispersing a Libel.] May 2. Mr. Anthony Rowe, member for St. Michael's,

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attending in his place, being charged, by sir Edward Seymour, with dispersing a Paper reflecting on their majesties Government, and on several members of the last parliament, the same was brought up to the table, and read; being entitled, 'A Letter to a Friend, upon the Dissolution of the Parliament, and the calling of a new one; together with the List of those that were against making the prince and princess of Orange king and queen.'*

Sir *Edw. Seymour.* I shall not say much now. You have heard the gentleman. When you have passed your censure on the Libel, I shall tell you my thoughts of the person who published it.

Col. *Austen.* I am as much against these sort of practices as any body; but may I not name a member guilty of the same crime? It was col. Beaumont, who brought a Libel, and out of it named clauses, and persons that brought them in. Pray accept of this Libel, and read it, and pass your censure upon it.

Sir *Edw. Seymour.* I humbly speak to your order, and nothing else. You have ordered Mr. Rowe to be here, and you have read the Libel, and, before you proceed, I beg your determination in that; and let this gentleman have the censure. This has been kept long. Mr. Rowe was charged in his place, and had time, and I presume that gentleman (Beaumont) will require the same time that the other had. If both belong to one thing, I hope you will send them both to one place.

Col. *Austen.* I thought you were bringing things of the same nature to the same trial. I must take leave not to answer mens laughing, till I am answered in another nature.

The *Speaker.* They are several crimes, if they are crimes, and severally to be answered. When you call for it, it shall be ready.

Sir *Tho. Clarges.* You have read that Paper; one and the other paper are gone all over England, not only into Cornwall. It is injurious both to king and subject; but since you have read that paper, and it appears so notoriously scandalous, you ought to pass your censure, and declare the paper 'scandalous, and prejudicial to the peace of the nation.'

Sir *John Guise.* I would have us all agree in moderation: it has been a consideration that you should not proceed farther for fear of sharpening humours. If those arguments have prevailed on you then, why not now? I would know whether every county, and every borough in England, has not had hard words and sharp censures. I know no country (but our own) that has had these excesses; reproached with being commonwealth's men, and no Church of England men; these are notorious before you in the printed papers dispersed. I would have equal justice done in these things. If you think it convenient, go on. I have something to say of other men, and I am sure nobody can say any thing of me.

Mr. *Godolphin.* I never gave my vote *nec ad aulam, nec ad populum,* but *ad libeandum animum meum.*

Sir *Christ. Musgrave.* Hearing my name, in that Libel, calls me not up. I am the same without doors as within. Seeing there are reflections upon the king, you must pass judgment upon it. The other Libel relates to the constitution of the house; since it is come before you, you must pass judgment upon this paper before you. It is a violation of the constitution of parliament. If persons be exposed for their votes here, it may work upon the *mobile.* (I fear it not, I am not considerable). First, take care to support the government, and vote this Libel, 'A high reflection on his majesty and his government,' and pass a judgment next by itself.

Mr. *Harbord.* A libel was seized by Mr. Frazer, and brought into council. The tenderness of the king was such, when it was brought before him, that the person was warned of it at his peril, if he did disperse any more. Though his be a great fault, I know not how things may revive. I would condemn this Paper, and so let us be at peace with one another.

Sir *Tho. Lee.* The steps of this matter were thus. Some days since, a gentleman was accused of dispersing this Paper, who was absent, and a day given him to appear. When that day came, the gentleman was not so early here at his time; afterwards he came, but you deferred it; you then thought fit to adjourn it. The gentleman is now in the house; you must next have him heard, and then he ought to withdraw, he cannot be here; and you then declare the punishment, when you see how far your member is guilty; and then proceed to censure of the Libel. This before you is but a copy of the print, and the person attesting it is not brought to the bar.

Sir *Edw. Seymour.* Harbord has given you an account of what was done in council; I believe he has licence from the king to do it, or else he has broken his oath. When Mr. Rowe had dispersed these libels in great numbers, and with malice prepense, he said he would print them. If you take no care of this, in the next election of a parliament, you will have enough to do.

Mr. *Harbord.* I understand my oath as a privy-counsellor, and will keep it. In what I informed you, counsel was heard on both sides, and the thing was public.

Sir *John Lowther.* I am one of those that are of opinion, that there is nothing more dangerous, nor of worse consequence, than libels. As to this, of dispersing libels at elections, we need nothing now to divide, we have enemies enough abroad. I believe, if there be a scrutiny into this matter, it may tend to unite us. There is no proof, who penned this Libel, or who dispersed it, nor does it appear, that this is the libel he did disperse. I know not how a court of judicature will take this libel to be proved. I desire the gentleman may be reprimanded; but not to widen the gap, I move, that gentlemen defer the business till some other

* See Ralph, vol. ii. p. 139.

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time, and put off the examination till another day. If you hear them all, you will employ your time in little else. I would adjourn it to this day fortnight.

Col. *Austen.* I am no great lawyer, but I think the fact proves the malice, not the malice, the fact. It must be malice prepense, let the person be who it will. Whatever is said on the one side, will be proved on the other. I am as willing to throw them both away as any body.

Sir *Edw. Seymour.* I have not told you one word of my own knowledge of this libel; but Mr. Rowe is not to answer his accusation till it be proved. To vote this a libel, and to let Rowe sit to vote whether it be a libel or not, you will have work enough. If you go on, let witnesses be called in. Here is a copy of a printed Paper; the information is, 'that Mr. Rowe had dispersed copies of it, and was sorry he had no more; and, before it was printed, Rowe said he would print it.' I would not bring a trifle before you; this is worthy your censure; if not, you will have enough.

The *Speaker.* This is a copy of a printed Paper, and the attestation of the mayor.

Sir *Tho. Littleton.* It does not appear to me to be so proved, as to put a question upon it. It may be proved, and I believe it as much a libel as any body, but it spread very universally. You may go upon both the libels, but I believe, in your prudence, you will lay them aside. At the beginning of this session, two were produced, and both referred to the consideration of a committee, but you have had no report; perhaps the committee in prudence would not do it. I hope the prudence of the house will lay this aside.

Sir *John Bowles.* I wonder Seymour should call this copy an original.

Sir *Edw. Seymour.* It was this very Paper that was dispersed. I confess myself 'a very ill *copy*, and full of *errata*;' but I take Bowles to be 'a great *original*.'

Sir *John Bowles.* I know not why he should call me 'an *original*;' but I would not go after his *original*.

Col. *Birch.* I know not how many of these may come before you. Since the wisdom of the house sees that this tends to division, pray adjourn the house, as has been moved.

Sir *Tho. Clarges.* You say 'the Paper reflects upon the king and the government.' A gentleman tells you, 'this very Paper was dispersed.' You must propose a question before you adjourn this debate. No expedient can be, but sending for the witnesses at the door.

Mr. *Hampden.* I see the debate is like to beget great heats. I have a libel of infamous queries charged upon the other gentleman. I hope all will be called scandalous papers, as well as others. A thing read in a noise cannot be strictly examined and censured. To say one numerical Paper was dispersed, this copy, or original, of many printed, dispersed—I would consider whether this is to be cooled, or thoroughly prosecuted. The issue of all debates is a question, and put it, Whether you will adjourn the debate.

Sir *Thomas Clarges.* I would know upon what question the debate is adjourned? I will do my duty, let gentlemen be as ridiculous as they please *(some laughing)*. First, state the question, what shall be on the Journal. Will you make no censure upon it? Collect the question upon the Paper, and then put the question for adjourning.

Mr. *Finch.* I speak to wording of the question. If the house be inclinable to adjourn the debate, I would never have the question worded so, as if possible the house did ever consider this to be a Libel. If the question be to adjourn, I offer it thus; 'That a debate arising about a scandalous Libel, the house adjourned the debate of it to such a time.'

Sir *Christ. Musgrave.* I take this to be a Libel upon the government, and if witnesses be at the door, and you will not hear them, to say you will adjourn the debate, is to call for it when the witnesses are gone, after long attendance. When our duty to the king, and the honour of the house are concerned, it is agreeable to justice that you deny no man.

Col. *Austen.* Several things must be debated before this comes to issue. I can never think a deliberate thing to be a reflection upon the house; therefore adjourn the debate.

Lord *Eland.** I think the kindest motion for Rowe is, to call the witnesses in; either the thing will be justified, or your member sorry for the accusation.

Sir *Tho. Lee.* The first question is, Whether you will adjourn the debate, but not next, calling them in; you must not be starved because witnesses are at the door. To order only I speak. I would plainly understand—I am for vindicating the king's honour, for if this had touched the king's honour, some of his officers would have taken notice of it. Stafford's was a treasonable Paper, from a man under some distraction, and you discharged him. Some things in themselves are better laid asleep, and this is one.

The question being put, That the debate be adjourned, it passed in the negative, 180 to 156.

Resolved, "That the Paper entitled, &c. (as above) is a false and scandalous Libel, reflecting upon their majesties and their government, and the rights and privileges of parliament."

Debate on the Regency Bill.] May 5. The house went into a grand committee, on the Regency Bill.

Sir *Charles Sedley.* The objection the other day was, 'That all Commissions determine, if you lodge the power in the queen, in the king's absence.' If he be in Ireland, he is not here. I cannot see any hurt for so short a time, by authority of the king, and consent of parliament.

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* Son of the marquis of Halifax, to which title he succeeded on his father's death in 1694, and died in 1699.

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Sir *Wm. Whitlock.* I find that every body believes the king intends to go into Ireland, and that it is necessary the administration power, in his absence, be in the queen. The objection made is, the danger of the trust in the queen; but you may trust either, or both, in the power you have conferred upon them. If the parliament have trusted them with the powers, you may trust them with the administration of them. Leave out the words, 'and territories.' The king may by act of parliament exercise regal power in Ireland, and the queen in England; and when the king returns, he returns to the former administration.

Serjeant *Maynard.* The reasons of this Bill are, 'That the king going out of England into Ireland, there is a necessity somebody should do what the king should do here.' You are moved, 'That the administration should be put into the queen, but not out of the king, to advise in the politics.' It is well known, what turbulences and great disturbances there are in Scotland, and as much in Ireland, if what I hear be true: with whom have we war? It is said with king James, but it is with France. King James is but his tool; with whose money, whose advice, and whose men? All French; can any man be so simple as to set up any body, but himself? Consider, if this Army prevail, it is not king James, but the French, that will have these kingdoms. Will the French king, out of kindness and compliment, part with three kingdoms conquered with his own money? I would have the Bishops consider (where so much right is laid) either the new ones, or those that are out; and I would have the Popish lords consider, who live quietly: will the French king let the English have great estates here, when he can have the French? Will the French king, in compliment to the Papists of England, put by his own subjects? Will you have the same Council about the queen, when the king is gone, that never could find out where our miscarriage lay? Londonderry was not relieved, the provisions were all corrupted; we sent to know, from whence this came: Shales was found out, but we could never know who recommended him to that service; and from whence comes this neglect? From those that acted or advised? I propound this, not only to the queen's councils, but in the government. Unless he would change his religion, a great man, the duke of Schomberg, must have no employment in France. We must give our souls to him, and he will take our estates. I did not say we should name a Council to the queen. The administration is in the queen, but it is the Council that does all. Those that would keep king William out, and keep king James in, now king William is in, it is strange they should be trusted. The alterations in the Militia of London have ever influenced England, and we give the king Thanks for the best put out, and the worst put in! Confirmations of the Liberties of the Church to the Church, and we apply them to the churchmen.

Sir *Tho. Lee.* If you will have only the counsellors now well spoken of, and never ill spoken of, you will have but a few of either. I am afraid, if a man pass away a manor, and the appurtenances are left out, the chancery will judge it for the purchaser; and Ireland will go away with England. Regal power, by serjeant Wogan, is distinguished from executive. I am afraid I cannot distinguish them, to make them separable and different. To turn regal power out of possession, I am not very fond of it in parliament. Let men tell plainly their minds, whether they will leave him no power, or leave him only king of Ireland. Such power of disposition of the crown being taken up by the people, I think this Bill necessary, and I hope the long robe will find out such a way to invest the queen with the Regency, as not to dispossess the king. I would have it plainly understood, whether, whilst the king is in Ireland, he loses the executive power in England, and whether he is not less than he is already.

Sir *Tho. Clarges.* I do not undertake to be wise enough to solve all these doubts; it is plain we are in great exigency, and the king, as now advised, resolves to go for Ireland. I would not be hasty in advising. I would not raise such a heap of difficulties, that we know not which way to turn. The French king has committed such great cruelties; scarce such since the Roman persecutions. I would rather endure any thing than that. Is Ireland in such a condition, that his presence is so necessary there, or Ireland will be lost? What if the king does not go, and we advise him to it, and Ireland be lost, and he tells you, 'By your advice I did not go!' You are moved to give the queen more power, the administration jointly in king and queen, and to the queen in the king's absence; shall the queen's hand be enough to warrants in the king's absence? There are perplexities every way, all will be of no effect. If the king goes not out of England, or if the king goes into Scotland, it relates to both purposes. I wish we apply the debates to amend the Bill as well as we can; if he does go, that he may go. I see no great hurt of adding 'Administration' to it. Something must be done, that the king may be in a possibility of saving that kingdom.

Sir *Christ. Musgrave.* You have a difficult thing before you. Our duty is to make the Bill so as to reduce it to the service of the king and kingdom. I suppose it is not any body's design to divest the king of any part of his royal power, but to consider, how to let the queen into some of that regal power, now in the king; and I should be glad to be informed, how to let the queen into more than she has already. The sole executive power is now vested in the king. I would not take away power out of the king; but, suppose you should say, whatever order shall be sent by the king, out of Ireland, shall be obligatory here.

Mr. *Foley.* To prevent two co-ordinate powers, let the queen have the administration

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till farther orders may be received from the king.

Sir *Joseph Williamson.* The difficulties to me are not so great, but the inconveniences may be such, as may dissolve the frame of the government that you have taken so much pains to settle. This is the case of all our kings that went into France. I know of nothing to be now done, but what was then done. What extent of powers, and, on what terms they left such powers behind them, we know. Now is a joint sovereignty, which cannot dispute, one which is impracticable—So there is nothing called upon from you, but to do, by the legislative authority, what the king cannot do by commission. I think there is difficulty in leaving power with the queen, both the way and manner of it. See what that power was then within the kingdom of England; in the whole course of the government these powers were left, and let no more be now in the queen, in the absence of the king.

Sir *Wm. Pulteney.* All agree, that it is your intention not to divest either king or queen of any thing in the Act of Recognition. As this bill is drawn, we are under great difficulties; but I think a short bill may be drawn for the king to transfer so much of the executive power to the queen, to take away all ambiguities.

Lord Commissioner *Hutchins.** If I have had many various thoughts upon the voyage, I have had none upon the bill. This doubt, whether the queen is not so amply and fully queen as in the Act of Settlement, may be of dangerous consequence, and how far the commissions of justices of the peace will be void. This may affect our alliances abroad. The king may see more in Ireland than can be seen here. I humbly propose, that this may not so pass, as totally to divest the king of his executive power. No precedent did ever reach this case, and, in that we mispend our time. Possibly there may be many inconveniences for the administration of the government in two persons, and to divest the king of it is not to be thought of. I move, That the Government may be executed in the name of the king and queen.

Mr. *Hampden.* I observe, most gentlemen speak very doubtfully. The more I hear of this bill, the more doubtful I am; and the more I hear the debate, the less am I able to resolve myself. You are got into a labyrinth by this discourse. If there were a precedent, it would help us greatly; but no precedent can be quoted that will reach your case. I am afraid to bring your constitution to a schoolpoint. *A videtur quod sic, probatur quod non.* The government is settled, and I desire to continue it so. The breaches we make in it, neither we nor our posterity can ever repair. The king is going abroad, and you are finding a way to be safe when he is gone; but I doubt, by this act, you can never be so. This will not come together by a concurrence of atoms, according to the new philosophy; but when you come to explain this act at length, you will find so many difficulties, that you will not know how to reconcile distinctions without differences. I have some other thoughts. You adjourned it *propter difficultatem*, as the Judges do in Westminster-Hall, and still you are no forwarder. You have had good Reasons, and yet they come not up to it. If the king goes into Ireland, without this law, he may act his executive power, (the sea-hazard excepted)—I would have gentlemen consider, whether, if the king do this without act of parliament, (which is wild-fire, if he does otherwise than you intend) it may not unsettle what may never be settled. Let the Act lie, till you have considered if some other thing may be thought of. An act is a dangerous application in such a thing as this. What work has a word in an act of parliament done? And now, to break into your government in its infancy! I doubt you cannot see how far an act passed may work. I desire it may be considered, whether a way may not be found to arrive at your end, without this Act.

Col. *Birch.* By all I have heard, by this debate, there is more and more difficulty; and nothing is offered in order to satisfaction. It has been offered to be effected without this act; if it can be sure, it is the safest. I would not refer it to any body in particular; but that the king's learned counsel may bring in something to-morrow.

Sir *John Lowther.* You have had a proposition, whether to do this without an act, either intimated by way of Address to the king, or Advice. This expedient will take up a great debate to find out a model for it, and the lords concurrence must be had to the matter and manner of the project, and then to present it to the king. But, when all is done, will this satisfy the people? And will it not constrain the obedience of the subject? Unless it be a law, it will be laid aside: though the intimation of both houses will carry great authority, yet not to the satisfaction of the people: therefore propose something that the house may go upon. You are told, 'If it were thought the king's power determined in Ireland, all would be against it, but for a concurrent power in the queen.' Propose such a question; if not practicable, go to some other expedient. If it be practicable, I have not heard of a better. It is objected, 'That the two powers may clash, and a question, which of the orders shall be obeyed;' but I cannot easily imagine that the government should so misunderstand one another, as that this should not be known. But, admitting there should be clashing, you may, in a few words, help it: thus, 'That the king's orders take place;' and the government may be resumed as easily as you make an act. It is agreed by all, that the queen be so let into the government, as to return to what it was.

* One of the Commissioners of the Great Seal, together with sir John Trevor, the Speaker, and sir Wm. Rawlinson.

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Mr. *Hampden.* I am of opinion, if you require the concurrence of the lords, and then send to the king, that it will be an act according to the old form. The king gives his consent *in pleno parliamento*, and it is a law. In the case of Lambert and Vane,* both houses petitioned the king for their lives, and the king consented; not that I intend to introduce a form of concession without act of parliament. You give the king advice not always by act of parliament. You told the king, 'You would give him assistance, not only by Money, but Advice;' and this may be brought into such a form, without act of parliament. It may succeed well, but is a dangerous expedient.

Mr. *Finch.* If the king goes into Ireland (otherwise we are debating upon nothing) the government is in the king and queen; the administration in the king alone: what do men understand by that? Every direction of regal power is by the king alone; his will and pleasure gives the sanction to obey. Royal assent is both in the king and queen; but the king's assent gives the authority, not from the king's only command, but regal power and authority from them both. The Act took care, that, if they should not agree; or give contrary command, though regal power is in both, yet the exercise should be in one, else it could not be obeyed. It is but one regal power, invested and determined in one. As for Commissions, &c. that is no objection, for the regal power is from both. But the king being in Ireland, the defect of immediate administration requires that this must be by act of parliament. I think it cannot be otherwise. Regal power in the king and queen, to whom given?—Every commission to a Custos Regni, upon return of the king, immediately vanished, and the power ceased. It could not enter into any man's thoughts, that regal power should be in two persons. She cannot give it to herself, and no person ought to have it. If regal power be in her alone, Ireland is annexed; when you vest it in her, and her alone, the king is divested of the administration of regal power; he must write for directions from hence, which is absurd; somebody must be in, and nobody but the queen can be in. The king being in Ireland, regal power in both, warrants the immediate administration here. You may declare, 'That, during the king's absence, every act of administration by the queen alone shall be good, when the king directs not the contrary;' and, in that, you affirm the administration to be in him, and upon his return this ceases. This may solve the difficulty; if there be more, it may be solved upon debate. If there be contray commands in any warrant from the king, all subordinate officers are to obey them. In the commissions from Custos Regni, they never excluded the king from direction of the administration: this makes no alteration in the regal power, nor disaffirms the king's.

* See vol. iv. p. 119.

Serjeant *Tremaine.* We all wish that there was no occasion for the king's going. The question is, Whether it is not a greater good, his going, than staying here? (Sir Wm. Leveson Gower's motion, to know who advised the king to go, and that we should advise him to stay.) This bill, besides the Act of Settlement and Recognition, says, 'The regal power is in the king and queen; the exercise in the king alone.' This bill will quite turn it to regal power in the queen. What effect may this have in Ireland? I desire it may be considered, what influence Scotland may have, when we give a precedent to shift and change the government here. I cannot tell what the construction may be there, whether it may not be said, 'That the king has parted with the government of England, and is gone into Ireland.' I would consider, whether this may not be done without an act of parliament.

Sir *Tho. Littleton.* All I have heard proposed, tends to unsettle the government, every one of them. Your government is not strong enough to try experiments upon; you have too many already. As to the queen, &c. in this Bill, it does downright depose the king. I am sorry it was no better considered before it came from the lords. If then it be every body's intention, that the administration shall not be out of the king, I ask, to what purpose is the bill? It is as easy to send to the king for orders, as for the king to come over to do it. All the provision you make, the king must be concurrent in. It is said, 'If the king give no directions to the contrary, the queen's orders shall be obeyed.' Can the king know a thing before it be done? And if done, and the king direct not the contrary, it shall be good, though the king never knew it, and it is done; it is good, whether the king direct it, or not direct it, *factum valeat*—The queen cannot give and take, unless you say the king and queen shall join *quoad* particular purposes. If, by commission, she be Custos Regni, how far may it be for her honour to stay here! A thousand things may be said, able to make a man's head ach.

Sir *Henry Goodrick.* We have heard a great deal of learning on this occasion; and, I am confident, good affection. The safety of the king's person, and England, are the main considerations. Whoever gave the king this advice, if the utmost necessity did not justify it, no gentleman dares own it. It is too bold a thing for a man to countenance the king in it. God directed his glorious expedition. I take it for granted, that the king will go into Ireland, and now we are upon negative Resolutions. The question is now, Whether to divide the regal authority? If one go out, where will you place it? If, by commission, in Custos, or Custodes; if you go by any former precedent, I doubt you will be mistaken; but for the power so reversed, and the king to resume it at his return. I hope you will come to some conclusion, and neither advise nor dissuade the king. (And so reads a question.)

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Sir *Wm. L. Gower.* I am persuaded that the king has taken a resolution to go; but I must as boldly say, the king did not apprehend that he must leave his regal power behind him; and I would address to inform him so. I am not for chopping and changing regal power, to go a king from England, and be but a gentleman in Ireland; and am as much against a Custos Regni. If the king thinks fit, let the queen have it alone, and address, by the privy-council, to inform the king so, and to stick to the Act of Settlement. Either part with it entirely, or keep it entirely; and do not make him a king, and unmake him again.

Sir *Henry Goodrick.* The king, in his Speech, said, 'He was willing to leave the queen the administration of regal authority in his absence.' There will be no action, and, I fear, nothing likely to be, till the king comes into Ireland. I look upon the king's resolution for Ireland as an inspiration from God, who has blessed his generous thoughts to go into Ireland. I would willingly take longer time to consider; but I look upon the king's resolution to be stedfast.

Col. *Austen.* I would defer proceeding any farther, till the king gives intimation how far he is willing to divest himself of regal power; *volenti non sit injuria.* If your minds alter so soon, none knows without doors how soon it may alter again. I move for some modest question to the king, to know how far he would be divested of his regal power.

Sir *Christ. Musgrave.* If the king had not said it, in his Speech, you might have done so; but, in plain English, it is you that have no mind to let him go; I dare not say so. Some are against an Act; but, if not by act, what way can it be done but by commission? And that is much more liable to exception than an act of parliament. When by commission, may not people say, 'The power is in both; and I am not, by law, obliged to obey without act of parliament?' The king abroad, and the commission disobeyed, what will be the consequence? Read some of the propositions.

Sir *Thomas Lee.* I am of opinion with Austen, that you had better have no Bill than that Clause. So few are for its standing in the bill, that it cannot, till other words be put in the place of it. I observe, the king said, in his Speech, 'If you thought it necessary, he should go, &c.' It has been said 'The king had considered it by his council.' If it had been considered, you had not had so much debate. If they did not consider it, will not you? This use may be made of the debate; the house may give order to compose a Clause, so as not to deprive the king of regal authority, and not know how to give it him again. If you once take away regal authority, there remains little to be obeyed. I have said nothing to-day to hinder the king's going, or to promote his staying; from all these difficulties you may have a Clause to answer your ends.

Mr. *Godolphin.* That there may not be indecent jealousies betwixt the king and queen, in the administration of the government, in the king's absence, I proffer Finch's Clause.

Mr. *Harbord.* Perhaps, if the king had thought of the inconveniences, he would not have said what he did, in his Speech, of Ireland; and I wonder at it, when I hear men in the best posts in England in such doubt.

The *Speaker.* It was said by Harbord, 'He stood astonished, he acknowledged, at what a man in the greatest post in England said.' Let us know it, that we may be astonished too.

Mr. *Harbord.* I am not only astonished at that, but at what you have done here too; when I hear that, in the lords' house, some called the king *de facto* only.*

Mr. *Finch.* I am not fond of any thing that I have delivered to you; my proposal was, 'That the queen's act, in the king's absence, should be valid in all cases, except where the king directs the contrary.' My meaning was only this, whether it solved not that difficulty of not leaving the king in the administration. In peace, the government of Ireland, by a lord lieutenant, or deputy, is directed by the king. The queen provides for the immediate necessaries of the government, and the king has the controul of all, and she is subject to the king's orders in his absence. The king cannot exercise the government here in all emergencies in peace and war: it is impracticable, unless he could be sure of winds, and could direct his enemies where they should be.—To proceed to-morrow.

May 6. The house went into a grand committee, on the Amendments to the Regency Bill.

Mr. *Powle.* When I heard this opened, I did not well understand it. The words of the Clause do expressly vest the power in the queen, as in the king. Then comes the Proviso, and says, 'It shall, notwithstanding, be in the queen.'

Mr. *Finch.* The first proposition divests the king; but by making it lawful for the queen, it does not say it is unlawful for the king to do it. There is a great deal of difference; the king is resolved to trust the queen.

Sir *John Guise.* I am dissatisfied with what fell from Finch. If 'the king has resolved it,' and we must not debate it, I think the freedom of parliament is gone. If the king has said, 'He will trust the queen,' and that is not a thing to be talked of here, I have done.

Sir *Wm. Pulteney.* The distinction offered by Finch, if it be a distinction, is a wonderful nice one. Whatever the queen does, if it is lawful for him to do, does divest the king of power. I would not have the government depend upon such nice distinctions. If it puts the executive power in the king and queen to act differently, they may act differently. Perhaps all these objections may not happen; but when we do it, we must be able to satisfy the world as rational men. I appeal, whether ever regency of lieutenancy, or Custos Regni,

* The Earl of Nottingham.

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was *pro hâc vice?* This may, perhaps, as it is penned in the bill, be for 20 years. If the king will go, he must go; but I would not leave it upon such nice distinctions.

Sir *Tho. Clarges.* I conceive we are in a miserable condition, and the king must go for our safety; and if we do not provide for his absence, we are in a miserable condition. Pulteney says, 'He never knew a Custos, &c. for 20 years, &c.' But he must consider, that he never knew any Custos, &c. but subjects.

Sir *Wm. Pulteney.* He totally mistakes me in what I said; the meaning was this: whatever Custos you have, when the king goes into Scotland, or France, there must be a law for the administration of the government.

Mr. *Finch.* I should be loth that the government should depend upon nice distinctions. Not any thing came from me that did occasion this. As for a Custos, &c. it is impossible there should be one so long as the queen is here. This Clause is for the administration of the queen, and the king may take it when he pleases. If ever execution of power be so much in diminution of the king's power, then Pulteney is in the right. Every act the queen does is supported by this Clause.

Mr. Solicitor *Somers.* No man should make objections, but should likewise propose expedients. If supposed, or afraid, that it is absurd to have two co-operative powers, or any mistrust of the queen. I believe her the best woman in the world, and she has showed herself so ever since she came hither. But I ask if any good law was ever proposed, that it is a mistrusting the king? I say, there are difficulties. You may suppose absolute power in two together; but separate, all writers agree, and I am as far from mistrusting the queen as any body.

Sir *Rob. Howard.* This is as green a motion as any. I believe Finch intended no infringement of debates; but, perhaps, might mention some innuendoes to fortify his reasons. For a thing to be made use of when bad, because it cannot be made good, is a strange argument to confirm many an ill thing that cannot be made good. We are told, 'That it is inconvenient for the government to be in two, and therefore the administration should be in one.' Two Czars of Muscovy at a time! (some laughing). Sure they can argue better in their reasons than in their noise. Let me ask how this is practicable? You must suppose the king will never act by this power, or act nothing contradictory to it. If this be so, if you can allow that communication, it may be as sure to you without a contradiction. This Act is not only for this expedition into Ireland, but as often as he goes out of the kingdom, during his life. I think the Clause is full of contradictions.

Sir *Tho. Clarges.* We are told, 'The Bill is impracticable,' and of 'two Czars of Muscovy.' I find no contradiction in the first Clause, at least. In there be any in the rest, I hope the wisdom of the house will mend them. For decision, pray put the question.

Sir *Tho. Littleton.* I have heard so many objections, that I believe you cannot mend the Clause. Suppose the king and queen go into Scotland, shall not the government be provided for? When the Bill of Rights passed, it was not out of disrespect to the queen that the sole government was in the king; it was because it was absolutely necessary the government should be in one hand: why not so still? Now the Clause is, first in the king, and then in the king and queen too. It is an easier matter to give an opinion, whether it goes with one's judgment, than to say how it shall be mended They have said, 'Mend it,' but nobody proposes to answer objections, but by calling for the question. I agree that it is debasing her authority to have the queen in commission to disparage her. If the authority be in both, suppose the queen should think fit to dissolve this parliament, and the king dislike it, yet he must call another.

Sir *Wm. L. Gower.* I take this Clause to be no less than, as Napier called it, Transubstantiation; regal power in England, and regal power in Ireland. I am against the Clause, and against the bill, and all you can do in it; not that I distrust the queen any more than I did the king at first. I would not have the king go into Ireland. When gentlemen shewed a necessity for the king to go into Ireland, they must say that Ireland is of more consideration than England, and they had rather lose England. Another want is, Money; that Army is ill paid. I would not have the king go into Ireland to head a mutinous army. I would not be left in possession of a government, that punishes nobody, and pardons nobody. I had rather Ireland was lost than England, if it must be so.

Sir *John Lowther.* Gower has dealt sincerely with you: he is not for the king's going into Ireland. If the debate must turn upon that hinge, I am ready for it; but if the house will offer advice to the king, I am willing to join. Some gentlemen seem to agree, that a Proclamation may do as effectually as an act of parliament, but the objections are stronger against a proclamation than an act. How shall they obey the queen, exclusive of the king, or jointly with the king? I see no way for the thing to be done by proclamation, that may not be by act. It is strange not to suffer the king to go out of England be the exigency ever so great. Kings have gone into France and Scotland, and then there was no difficulty in a Custos Regni, and now we have a person, and no difficulty in the choice of a person, only in the manner how to be invested with this authority! State it thus, that it is absolutely necessary that the king go, and that there was no queen in the case, then there must be a Custos; if a means is to be found out, then it is as absolutely necessary to be the queen as any person. The only clashing is about the orders which shall stand in force, that they do not interfere; but then the king's are to be executed first. His general instructions will

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be observed, and emergencies be supplied by the queen. I see no difficulty in the thing.

Col. *Austen.* I have not yet seen it made out absolutely, that there is a necessity for the king to go into Ireland to hazard himself. I would present to the king the sorrow and great apprehensions we are under.

Sir *Henry Goodrick.* I am sorry we have nothing but apprehensions upon us. I would not trust so much to ourselves as to be divided. I would trust in nothing but in God above, and our sovereign below. It would be strange for us to break such measures, under such an auspicious government. I am sorry to hear mention of 'the Czars of Muscovy;' it is foreign language, and becomes not an Englishman. I look upon Austen's motion to be like a senate's Address to a doge of Venice, as much as the Czars. There is nothing left but that immediate way of the queen, and I would acquiesce in that. I do it as to an English princess; we may place our trust in her. I am not jealous, frighted, nor have apprehensions of it. No man can answer for this or that man's doubt. There is a necessity not to act by a Custos, but by a regent. If you put in a Proviso, do you not leave it to the king, and in the king's power to pass the Act, or not? Will you say, he shall not go, and run all the risk of it? That is so choquant (shocking!) I will quote a precedent, and a full precedent in this case. I will fetch it from the flourishing kingdom of Spain, under Ferdinand and Isabella. The king, in their Cortes (parliament) of Arragon, did propose to go against the Moors; and that of Philip and Mary here from that precedent. It suits extremely with your sense. I cannot say, I will advise the king to go or stay, but the safety of England depends on the immediate finishing the conquest of Ireland.

Col. *Austen.* I know not how the comparison of 'the Doge of Venice' can be applied to us. It would be unmannerly for us to advise, now the king has declared his resolution, and this will make him 'a Doge of Venice;' it would then be proper to have a table of what advice we should give, and what not.

Sir *Robert Rich.* Whether it appears 'a Venetian advice,' or whatever it is, I shall speak my mind. I am convinced the Bill is impracticable, because to conquer Ireland is too high a flight. There is no powder, no stores, no money; and to send the king into Ireland to call for any of these, and not to be obeyed! The Army of Ireland is in a great general's hand, and Goodrick knows his merits better than I. Is it the king's resolution to go, and no one's else? Where did this scheme and resolution first rise? If it be good, they will own it; if not, it is in the dark. I doubt we shall bring one of the greatest princes upon earth into the greatest difficulties upon earth. We have a right to address the king (and it is not so unmannerly done) to stay; but you may leave the chair, go into debate, and lay all these difficulties before the king.

Col. *Granville.* It is not with respect to the king, if you address him to stay. He has so often published that he will go, that I fear his honour, as well as your safety, is engaged. If you enable him, I hope he will have victory, and after that peace. I should be glad the queen might have the power in his absence any way, but by bill; but rather than Ireland should be lost, put the question.

Sir *Charles Sedley.* The king has not advised with us, but told us, 'he will go.' His foot is in the stirrup, and you catch him upon the shoulder, and say, 'he shall not go.' Whether the king go, or stay, leave it to his choice. If you do not pass the Bill, it is impossible for him to go.

Sir *Edw. Seymour.* We have been two days on this subject, and done little, and, in the method we are going on, shall do as little to-day. I have seen how the debate has been carried on, and by whom. Yesterday you were under some perplexities. If we jogg our constitution out of rules, of the two evils, the least is to be chosen. The question is, Whether you will trust the government in the queen's hands, or not at all? Several projects have been offered, as a Proclamation, &c. It has been said, 'As the Bill is penned, the queen may dissolve this parliament.' But I would explain; as Thompson said, he cared not which side was uppermost, that is our uneasiness: but shall we sit still, and do nothing for your security and safety?' It is not proper to give advice, till asked of us. The king has told you, he will go into Ireland. What is the reason of borrowing on all our Money, but our belief that we are safe in the resolution he has taken? If our advice is not mannerly, sure it is not prudent, and if not other vigour put into hands* than was last year, we shall not be long here. When the king is gone, the government must be somewhere. Will you have it in other hands than the queen's? You have a good clause before you; there is no objection against it that is solid; put the question for that clause.

Sir *John Guise.* It is said, 'The king resolves to go into Ireland.' I had thought, that, by the laws and customs of the realm, the king could do no wrong, because he takes the advice of others. The thing had better take up a quarter of an hour's debating now, than a year's fighting it out afterwards. Have you not any thing to regard but Ireland? I think you have England and Scotland. Should the king go and fail, or a greater misfortune happen, his death, what a posture are we then in, in relation to England! I hope the Army is paid, and no parties in England; but I fear, should there be any ill management or disorders here, the French will make their advantages of it. As to Scotland, I have heard dismal accounts from thence. Who then is the person most proper to countervail all these difficulties? If the king go, have you any such thing as a

* Sic Orig.

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general in his absence? If any misfortune happen, I have done my part, and I tell you, I will go as far for the good of the nation as I can.—The Amendments, reported by the committee, were then agreed to by the house, and the Proviso was ordered to be ingrossed.

May 7. The Regency Bill was read the third time.

Mr. *Foley.* I suppose it is the intention of the house, that the king have the administration of the government when he comes back. I proffer a Proviso to assert whose orders shall be obeyed; viz. 'That the king's shall be obeyed.'

Sir *Christ. Musgrave.* This proviso supposes, that the queen will not obey the king's orders. I would lay it aside.

Sir *Tho. Littleton.* The clause has no hurt in it: it is possible the queen may be surprized, and orders may be given unknown to one another, and both cannot stand good: if such a thing should happen, there is no hurt in the clause.

Mr. *Finch.* The only reason I hear for accepting this clause is, 'Because there is no great harm in it:' to let the clause remain is no great harm; but I never heard it was a reason to receive it, because there was no great harm in it.

The Proviso was rejected; and the Bill, with the Amendments, &c. passed.

May 8. The question being put, that the Bill for reversing the Judgment in a Quo Warranto, against the city of London, and for restoring the city of London to its ancient Rights and Privileges, do pass, the house divided, and it was carried in the affirmative: yeas 166, noes 76.

Proceedings on the Bill of 500l. Forfeitures.] May 9. The house having resolved itself into a committee to consider of the Bill for vesting the 500*l.* Forfeitures in their majesties; and Mr. Speaker having resumed the chair, a motion was made to adjourn the house, but passed in the negative, yeas 76, noes 80.—After which the chairman of the said committee having not been directed to make any Report, the house again resolved into a committee, and the report was referred till the next day.

May 10. The question being put for making the said report, it passed in the affirmative, yeas 176, noes 93. The chairman then made the report accordingly, and a Clause was admitted, to be part of the Bill, 'for the Money to be paid into the Exchequer, and that a distinct account to be kept thereof.'—The question was then put, That the Bill, with the Amendments, be engrossed, which passed in the affirmative, yeas 152, noes 106.—On the 14th, a motion being made for reading the said Bill, it passed in the negative: yeas 92; noes 111. On the 15th the Bill was read the third time. An engrossed Proviso was then offered to be added, as a rider, That the Bill shall not charge any person, who accepted any office or commission, and executed the same without qualifying himself, if the said person do qualify himself as required, before the 1st of August next: It passed in the negative.—And the question being put, that the said Proviso be read a second time, it passed in the negative.

Another engrossed Clause was likewise offered, That no person shall incur the Penalty, who shall at the next quarter-sessions, take the Oaths on the Statute for 'Abrogating the Oaths of Supremacy and Allegiance, and appointing other Oaths:' and make the Declaration in the Statute 25 Car. 2. And the question being put, That the said Clause be read, it passed in the negative.

Another engrossed Clause was offered as a rider, 'That, whereas a Judgment was given in Easter or Trinity Term 1686, in a Suit between Goodwin and Hales, contrary to law, and it is enacted, That every Judge of the court who consented thereto, and also every judge and baron, who delivered any opinion for the giving the said judgment, or for dispensing with the statute, shall forfeit . 'And, That every person, who passed any Patent, dispensing with the same, shall be for ever disabled from holding any employment or trust; and that every judge or baron, that were so in the said Easter or Trinity term, who shall not appear before the commissioners for that purpose appointed, and prove that he did deliver his opinion against the said Judgment; such judge or baron shall be adjudged to be convicted, and to incur the said forfeitures, and disabilities.'

Resolved, That the blank be filled up with 500*l.* And an Amendment was then proposed to be made in the said Clause, by leaving out the part relating to the disabilities, which upon the question, was agreed to by the house.

The question being then put, That the Clause be read a third time, it passed in the negative.—Another engrossed Clause was offered as a rider, That this Act shall not extend to charge any person, who after Oct. 8, and before Feb. 13, 1688, accepted any office, or commission, and executed the same without qualifying himself: if such person do qualify himself before Aug. 1, next; which proviso was twice read, and the question being put, that it be read the third time, it passed in the negative, yeas 160, noes 150.

Resolved, That the Proviso be made part of the bill. The question being then put, That the bill do pass, it was resolved in the affirmative; yeas 137, noes 91.*

* "In the end of the reign of James, many of the Dissenters had been allured to accept of religious liberty, illegally tendered by the stretch of prerogative; and some of them had accepted places for which they were disqualified by law. It appears to have been with a view to expose the transgressions of the Whigs, that the Tories now brought in a Bill, for vesting in his majesty all Forfeitures incurred by those, who had been in office in the late reign, without the legal qualifications; and, that none of the forfeitures might be alleviated or

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Debate on two Members attending the H. of Lords.] May 12. A Message from the lords, to desire, That sir Robert Clayton, and sir George Treby may attend their house concerning the Alteration of the Lieutenancy in London.

Sir *Henry Goodrick.* For persons to go from your house, to be sworn for evidence to impeach your Judgment of the Lieutenancy of London, I hope you will consider of it. For your members to attack your Judgment—I hope you will not compel your members to that.

Sir *Tho. Clarges.* I am sorry to hear such a Message from the lords; it is an unfortunate thing; it affects me very much. They are scarce good friends to this monarchy, that will make a difference betwixt the king and his people, to impeach the king's authority into the bargain. By an act of Charles 2, the king has power to place and displace in the militia, and the king has taken great care of the militia of London, which is the great chamber of the kingdom. The king has settled this by commission, and placed persons as he thought fit; and it has been so well received by this house, that they addressed with Thanks to the king; and it is reported, that the lords have sent for a List of the lieutenancy, to know whether the king has done well, or no. The consequence, whatever it be, must tend to make a difference betwixt the houses. As for one of the gentlemen (Clayton) he is a party in the lieutenancy, and as for the attorney-general (Treby) the lords have a claim to call him to their house to sit there. Is not this a sort of bringing of original causes before the lords? In appeals, and writs of error, they have judicature, but not on the commons: they are no *censoris morum;* and to send a *si quis*, whether the king should give men such authority! Examine this, whether the lords do it judicially, as an original cause, and send the lords Answer by messengers of your own.

Sir *Edw. Seymour.* Some present answer you must give, and it is moved 'to send it by messengers of your own.' The Message is of great moment, for your members to attend the lords. In all the enquiry I can make, I find no instance of such a message, till the last parliament, that Mr. Hampden, junior, was sent for, (see p. 425). Since it may be a contest, whatever it is, I would have the right on your side. As for one of them, the attorney-general, the lords had a right to him before he was your member; therefore I would not insist upon a person that sits here by their courtesy, and not your right. The lords never send for witnesses in matters of Impeachments, as Goodrick said; you prepare all that. By the same reason that the lords send for one of your members, they may send for ten; and, by the same rule of proportion, call for the very Chair for evidence. It is against the right being, and order of the house to send your members, and I am against it.

Sir *Wm. Williams.* I offer, that, as to the attorney-general, the king calls him thither, and the lords cannot distinguish him as to themselves. The attorney is not in possession of his place there; it must be the king that calls the lords to parliament, as he may do any of your members. I would send the lords an Answer by messengers of your own, till you can search Books; it is the best answer that can be given.

Sir *Tho. Lee.* It is said, 'The debate may be long, and the messengers will stay;' but the messengers must attend the fate of that. I hope, whatever Sawyer's opinion is, that the house did rashly in the Thanks to the king about the Lieutenancy, that you will not take the sole advice of the king upon you; and, in the last Message, when you might have asked the lords concurrence, you said, 'You thanked for the cause, and not for the persons;' the lords now enquire into the persons. Your best Answer is, by messengers of your own. In the last parliament instead of giving leave to your members to go to the lords, to give evidence, you should have let the lords know that you are prosecutors, though they are the judges. I am sorry you have shown the lords the way to the king without you. The lords have a right to begin an Act of Attainder, as well as you. If the lords should proceed upon this as criminal, you let them know you are the accusers; and the best answer, for the present, is, by messengers of your own.

Col. *Austen.* It does not appear that the lords, in this, act as in order to Judgment; and therefore it is no original cause; but that the lords may second you in their Thanks, if they shall think fit, I cannot see that any of those cases mentioned stand in your way. To suppose they shall shock you, is more than you ought to do. I would send Answer by messengers of your own.

Resolved, "That the messengers be called in, and acquainted, That the house will return an Answer by messengers of their own." Then the question for adjourning passed in the affirmative, 159 to 156.

Debate on preserving the Peace of the Nation.] May 13. Sir *Edward Seymour.* I will not enter into the history, how the sun has gone back upon our dial; only I desire we may be preserved for the time to come. If you can sit down with all the ill administration of affairs you have had already, there is an end of my motion. I hope the king, upon passing the Bill of Regency, will leave us some time to

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remitted, a Clause was added, ordaining them to be paid into the Exchequer, and accounted for to the public. This bill, if it had taken place, must have affected their own friends; but the Tories were willing to suffer in their pecuniary interests, provided that they could reduce the reputation of their antagonists to the same level with their own. After having passed the house of commons, it was thrice read in the house of lords, where some amendments were proposed; but the adjournment of parliament took place before these were agreed to by the other house." Somerville.

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consider; and it is worth your thoughts to consider to provide for the safety of the Nation in his absence, whether by the Militia, or otherwise. My motion is, 'To resolve the house into a committee of the whole house, to consider how to preserve the Peace of the Nation in the king's absence.'

Lord *Castleton.* I am seldom of that gentleman's opinion, but I am now, and I second his motion.

Col. *Granville.* I have heard the motion, and I think it so necessary, that I would not let it pass over. I am ready to embrace any remedy that may be offered. If we are in danger, now the king is here, and an army to defend us, we cannot be safe when he is out of England; therefore I second the motion.

Sir *Christ. Musgrave.* The motion is of great importance; and that of the Militia, moved by Coningsby, is but one part of our safety; therefore I concur with Seymour's motion.

Sir *Tho. Clarges.* I confess I do not understand the motion. You have had the Militia under consideration, and disarming Papists. The persons most likely to endanger us are the Papists, who, in the North, are gone from their houses, and are in confederacies. I would not lose the fruits of that Bill, so much for your safety, but I would speedily proceed upon it.

Sir *John Guise.* This is too weighty a matter to speak to it off-hand. It is worth your time to consider, that a great part of the business of parliament is consulatory. Many words are not requisite now; and I move 'to go into a grand committee to-morrow.'

Sir *Tho. Lee.* The question is of great weight, and it is late in the day. I cannot say, (as lord Castleton) 'That I am seldom of Seymour's opinion;' but I must say, I have been more of late than formerly. I should be glad if he would propose something for you to go upon. I should be glad to have a little light what you have to do: but it falls oddly to have this motion come on the same day you have agreed the Bill of Regency with the lords;* now to put it in the people's heads, that they are insecure. It may be of some danger to publish your Votes now, at a time when you have passed a bill to be secure in a Regency, and that now you declare yourselves insecure.

Sir *Edm. Jennings.* I suppose there is something *latet in herbis* in this motion. I think it is time to adjourn, and go to dinner.

Col. *Austen.* I wonder to hear gentlemen speak of 'the security of the Nation in the king's absence,' and the next motion, 'to go to dinner.' I will trouble you with nothing more than what has been said. I reckon there is to be a management by council, and it is no disparagement. I think, if the motion be not agreed to, it will look ill abroad.

Sir *Henry Goodrick.* Perhaps this motion may tend to taking the ministry out of some hands, and putting it into others. It is both the right of the crown, and a necessity of putting the government in the queen, a princess of great judgment, and the king may well put her in that trust. I wish Seymour would be more particular in his motion; if not, you may proceed upon general Heads of a bill for the Militia; but if he will make no farther explanation of himself, I would adjourn.

Sir *Ch. Sedley.* We are all contented, that the queen should have the administration of the government, in the king's absence; and we now consider how to make it easy to the queen. She is a wise woman, but she is a woman. The king will leave her some of his own council, and some of king James's council, a mixed council. What concerns all people ought to be handled by all; and I move as Seymour, &c.

Col. *Birch.* I am not fit to speak to this business: I cannot dance about it as others can. Nobody can doubt but the queen is but a woman still, and must have council. This is the great council. What will the people say? You have passed a Bill of Regency; but who shall advise and manage the queen in the king's absence? If Seymour meant not that, in his motion, I know not what he meant. If to have the kingdom managed for its safety be the meaning of it, I am for the question.

Sir *John Lowther.* I do not well comprehend the meaning of this Vote. I wish it may be explained, that we might. No motions should be made without the subject-matter before you, and the meaning of it. I would not willingly anticipate any thing. If, by the debate, we delay the king's journey, or create apprehensions in the people, we make the danger greater, and the enemies to the government will proceed more boldly, when they see you apprehend your own weakness. Unless the motion be explained, I second the motion to adjourn.

Sir *John Thompson.* I am for the motion, and I wish it had been sooner, and for a reason not touched: in the last parliament, when we were upon the consideration of the State of the Nation, and an Address preparing to the king, we were prorogued: we are doing what we were about then, and may be prorogued as we were then. After we have been hit twice in the same place, I am for the motion for a grand committee to-morrow.

Sir *Edw. Seymour.* I had not gone on, but that the house seemed to acquiesce in my motion, and that gentlemen should be surprized to consult their own safety! I should be glad to be so surprized. My motion is plain and intelligible. He is a bold man that dares present you with a remedy to that end, otherwise than as a general proposition. If the motion be not entertained, the world may think we are in safety, and we need not consider of it.

Sir *Wm. L. Gower.* I cannot imagine what explanation the motion needs; it is as reasonable as ever I heard. Though Seymour be able to propose, yet that no man will do but at a grand committee. We must consider this

* This Bill had been returned by the lords just before.

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whilst the king is here, else, when he is gone, we shall want him to help us. Provision for our safety, whilst the king is here, is much better. I cannot apprehend what gentlemen fear from this consideration. The Bill of the Militia will not reach your end. Since all conclude it difficult to keep us in peace in the king's absence, pray put the question.

Resolved, "That this house will, to-morrow, resolve itself into a committee of the whole house, to consider of ways and means to preserve the Peace and Safety of the Kingdom, in the absence of the king."

May 14. The house went into a grand committee, on ways and means to preserve the Peace and Safety of the Kingdom, in the king's absence.

Mr. *Holt*. I hope this day will not prove as others have done. We find fault, and do nothing. Great complaints are made abroad, and, I fear, jealousies. The papists say, 'We dare do nothing.' The nation can never be safe, nor at ease, till Ireland be reduced. Now, consider what hands we shall leave the queen in, in the administration, &c. It is of great consequence to be in hands we confide in. I hear that one Shales is come over. I would have him come up to give you account of the state of Ireland: they say, he is at Chester, and I would farther proceed to settling the Militia, and what else is requisite.

Serjeant *Maynard*. We have had discoveries made of conspiracies, but never bring them home to any body. We have sent for this man, (Shales) and cannot get him. I would know who has obstructed it.

Sir *Wm. L. Gower*. You have been moved for Shales to be sent for Will that be any security to the government? I hope you will think of something else.

Sir *John Guise*. The Order is, 'To consider how to secure the Nation, &c.' I know not how Shales comes directly into this case. If the errors of the last year must not be redeemed but by Shales's coming over now, I think that strange. Perhaps the queen may be very well satisfied without this; but it may satisfy her to have the Advice of this house; not that she wants advice, but is it not usual for us to give advice? The credit of the government may be in that advice. I have laid down some of my own thoughts for the present: I hope other gentlemen will do the same.

Sir *Henry Goodrick*. Certainly Shales is in custody by duke Schomberg's order. One thing weighs upon me extremely; there is a wicked party in this kingdom, that incline too much to their opinion. I wish the public good may be the common standard: when I hear of such assemblies of men, and that the Scotch party increases in arms, and some whom the king has extended his grace to; when I see several persons taken in Kent and Essex, &c. I have reason to believe a general conspiracy. In four or five weeks they go loose again; every man will make friends of the unrighteous mammon, and favour them. I hope you will leave some such power to prevent this. Let us not enter into any thing now to breed distinctions, nor sow such seeds of discord as cannot become prolific, but by a separation amongst ourselves. I would consider such as are in actual opposition against the government, that they may be secured.

Sir *Wm. Whitlock*. What I heard from Goodrick calls me up. That persons should be secured, seems to me to be a retrenching the Habeas Corpus Act. If an angel came from heaven that was a privy-counsellor, I would not trust my liberty with him one moment. I would not now have a way to break in upon that law; for this very reason, I would not touch upon that law, for there never can be greater discontent than breaking in upon that law.

Mr. *Coningsby*. For some time I would repeal that law; it does not so much save you, as that your enemies, that would destroy the government, may not have the benefit of the government.

Sir *Joseph Tredenham*. Our circumstances are very ill, if inconsistent with that law.

Sir *Henry Goodrick*. I appeal, how irregularly those gentlemen speak to a thing never proposed. We are told of 'Saints and Angels,' by Whitlock, but I think there are none under his cassock; but I offered only, whether it was not fit, some way or other, to save the government; which it cannot be, unless the persons that conspire its ruin are prevented from walking about, &c.

Sir *John Guise*. I desire that nothing may be done with the Habeas Corpus Act, which is part of the Bill of Rights; but a little severity to these men will be ineffectual. There is a writ *Ne exeat regnum*, and I hope the lawyers will tell you, that that writ may be extended without violating the Habeas Corpus act.

Sir *Edw. Seymour*. I consider the motion that brought you into this committee to preserve the nation in the king's absence. I saw, in the Bill of Regency, the same dissatisfaction; if there be reason, there may be remedy. I expected to have heard another debate than about Shales. The Habeas Corpus act, the best security of the nation, I would not meddle with. I thought it had been the best part of the security of the nation, the council about the queen in the king's absence. I thought we could not be safe in the continuance of those hands who had so much shaken the government. Whether it was their design, their ignorance, or misfortune, I would have no such bottoms to trust the government upon. The king being here, the government is assisted with vigour; if we have those Miscarriages now, I have no reason to believe we shall be safe in his absence. I believe no man will justify the miscarriages. Now, reflect how our condition will stand, in such arbitrary and uncertain hands. If a man be sick, and can have no remedy, when he finds one, and will not apply it, he is in a worse condition. I am afraid, if we do not apply to the king, to

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alter the administration of the government, in his absence, from the hands it is in now, your government cannot last long.

Sir *Ch. Sedley.* That there are misfortunes from counsellors, I believe: I know not who they are, nor whether they are our friends. I have no accusation against any of them. I have been at cooking this dish many a time. To put the king upon this enquiry, now he is going away, would be unseasonable. Perhaps we are dissatisfied that some are in, and perhaps some would be dissatisfied if some of us were in. Pray let us go to some other business.

Mr. *Foley.* I have had experience how hard this has been. Heretofore none of the privy-council were ashamed of the Advice they gave; they set their hands to the Privy-Council book. I propose, that, for the future, all orders passed by the Privy-Council may be fairly entered, and that those present may enter their assent or dissent. Thus we may know, for the time to come, who gives Advice.

Sir *John Guise.* I do not doubt of Sedley's 'eating well, and cooking;' but I know no meat you have before you: I think this is not a jesting matter. I am of opinion, two ways must secure the peace of the nation; by those who have done amiss formerly, not to be employed, to distaste the people. I know not who they are. We all know the privy-council who are present, and who the rest; it is an easy matter to take them down, to see the characters of men. If the characters have been formerly before you, if in former reigns, or this, they have given distaste. Let names be after things. If all be well, and you have nothing to say to any body, pray let us go to dinner.

Sir *John Thompson.* When I hear the several discourses to-day of our condition, and the remedies, I would not leave them upon your hands. If you do not all the good, do some. I am only afraid of this, that they that have done you the mischief in time past will put you out of all power of remedy. They who sold you to France once, may do it twice. I desire to do something, and leave the rest to Providence. I would form it into a motion, viz. 'That all those who advised the king to dissolve the last parliament, may be removed from his council.'

Mr. *Hutchinson.* I would have the Journals searched. I think those under Impeachments, in former parliaments, not fit to be near the king.

Col. *Granville.* I hope we shall have some good effect of this day's debate. If we knew from whence our misfortunes come, they might be the easier remedied. I have heard persons described. I am for the head of the Privy-Council;* a great man, a bold man, and an able man, capable of making attempts on English spirits. When we reflect upon the arbitrary actions and counsels by the marquis of Carmarthen, in king William's time, it reminds us of the same actions in king Charles 2's time. I have heard of his merit in the Revolution. A private life would have better become him, and been more for his interest. I cannot wonder if people be cautious in sending Money to those that have so often miscarried. At one leap, from being prisoner in the Tower to be President of the Council, sticks with me. He has been impeached by the commons of England, and now to grasp at power to satisfy his revenge upon those who have impeached him, for betraying the liberties of England! I would pass some censure upon him, and pull him down, though he were greater than he is: and I will be ready to do always so to those that betray the liberties of England.

Sir *John Lowther.* I did not think we should have had so profound a silence, if the danger had been from so great, so bold, and so able a man as lord Carmarthen. For an Impeachment against him, and he never tried, if that be a reason why he should be kept out of the Council, it may be a reason why he should come in. I think those were great crimes in the last reigns, of surrendering Charters, and those were not called to account. We were told then to lay all things asleep; but if you will look into Grievances, look into the last occasions of your ruin, not only into 1678, but 1684, and the rest.

Sir *John Guise.* Mention has been made of other people in other parliaments, &c. that have been well spoken of in this house; but I wonder that so knowing a person speaks of justification, when pardons have been pleaded. In this case you have one mentioned; you may demand Judgment against him, and he has nothing to plead but the pardon; a man at that time questioned for French money*; and 'tis an easy inducement for me to believe he will do so again. This nobleman has formerly been concerned in this house; we know how that went off. We had such reasons as I can never forget, why a Pardon cannot be pleaded to an Impeachment. He is President of the Council, and I could wish Lowther would tell us the good that council has done. For my own common safety, I confess, I cannot have confidence in him. I second the motion, and desire, 'That, during the king's absence, the lord marquis of Carmarthen may not be left one of the Council.'

Mr. *Shadrach Vincent.* Since I see it is now the fashion to name privy counsellors, I will name another, who I desire may be turned out:

* "The earl of Danby had been made Lord President, and created marquis of Carmarthen. He had, by his accomplishing the king's marriage with the queen, and heartily concurring in the Revolution from the very beginning, atoned in some measure for his proceedings under Charles 2." Boyer.

"He is said to have pushed for the Treasurer's staff, a post he had formerly enjoyed, but was refused by the king, who was resolved the Treasury should be in the hands of Commissioners." Reresby.

* When earl of Danby. See vol. iv. p. 1060, 1067.

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he that delivered up the Charters in Cornwall. I mean the earl of Bath*.

Sir *W. L. Gower.* Till this matter be determined, I know not how you can enquire. If you will prosecute my lord of Bath, he has no pardon to plead, and, if he had, he will plead none. He will sooner turn himself out of the council, than stay in with him, if you move him out.

Sir *Tho. Clarges.* As to what relates to lord Bath, and lord Carmarthen, I will say nothing; but the matter of Gloucestershire (complained of by sir John Knight, about raising the Auxiliaries) is ten times of greater concern, and no laughing matter. I say, it is levying war, and no better. There is no law for Auxiliaries, but the Militia is our legal defence, and no lord lieutenant can raise auxiliaries; he is indemnified for what he has done, by the act, but if there have been any raised since the act, it is within the law of levying war. I move, That a committee may look into this matter. I cannot answer my duty to the king, nor my trust in this place, if you enquire not into it.

Sir *Edw. Seymour.* I am under no good circumstances of making speeches. I wonder that, what zeal soever men have for the thing, they should lead you out of order. I wonder this should be concealed all this while: I love not art of any kind. Let not the clock strike twelve at once; go on by degrees. It seems hard, that crimes acted so long ago should now be called in question; it were so, if we took any thing from him. If not fatal, it is at least unfortunate, if he has done it at one time, that he may not act it again. It is a question of common prudence for your safety. Let one thing take its determination, before you begin another. I would address the king to remove lord Carmarthen: I am sure he will neither support the church, nor the state.

Sir *Charles Sedley.* You are upon two motions; advice to the king not to leave his privy council to act all in his absence, but some council besides the privy council. I have received no dis-obligation from this noble lord, nor any favour from him; but pray keep us to some order, and put a question.

Sir *Henry Goodrick.* Orderly and properly you are to proceed upon my Lord President; all the rest of the debate is a deviation from the question. I am sorry to hear another noble lord named. I was one at first for not impeaching this noble lord. He was advised by his counsel to plead his Pardon. General accusations are general snares. Let any man, upon his honour, aver any of this accusation: 'Not fit to serve the church nor state!' I think it the greatest injury mortal man can have. 'Twas said by another, 'That the marquis of Carmarthen acted the same part now, that the earl of Danby did formerly.' Let them, on their honour, make it good against my lord president. I require it, in honour and justice, whether, upon a general accusation, we should desire the king to remove him? Let gentlemen stand up in their places, and aver the accusation, and I have done.

Col. *Granville.* Before I make out what lord Carmarthen has done, I hope Goodrick will make it good what lord Danby has done.

Sir *Henry Goodrick.* It is strange to call upon a man of honour to accuse his friend.

Sir *Edm. Jennings.* What proofs were made against lord Danby, when he was impeached? All know, the impeachment was brought on by a trick. As to his Pardon, it was by the advice of counsel, that he pleaded it. I believe he has given the king counsel to preserve our properties, to prosecute the war in Ireland and France, and to keep the crown on his head, and his head on his shoulders. In 1641, lord Strafford was accused, and condemned with a *Ne trahatur in exemplum.* The king's ministers were banished. (And so he proceeded with the story of that time.) The mismanagement is from others about the king, and if any be in this house, it is fit they should be removed.

Mr. *Dolben.* The present subject of the debate is lord Carmarthen. Notwithstanding all the reflections upon him, I think him as well affected to the government, as any at the council-board. It is said, 'An Impeachment was against him;' but no judgment was given on that impeachment. I will not say that every thing has been well done; he is a fallible man; but as ill things have been done before his time, and since, as he has been accused of. He was a great and main instrument in declaring king William and queen Mary, for which every good man has cause to thank God upon his knees. This great thing he has supported by all his actions since. Sure he has as great an argument to support them now, as he had then to bring about the match. There is a relation in principles, as well as alliance, betwixt the marquis of Carmarthen, and the earl of Bath. I am against the motion. If he be laid aside and removed, I fear a man less worthy may be put in his place.

Sir *John Thompson.* If we may believe printed letters, we must lay that match upon lord Arlington. I stand up to put you in mind of your order. Put the question, and the sense of the house will determine it.

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* "In the new Charters that had been granted, the election of the members was taken out of the hands of the inhabitants, and restrained to the corporation men, all those being left out who were not acceptable at court. In some boroughs, they could not find a number of men to be depended on, so the neighbouring gentlemen were made corporation men, and in some of these, persons of other counties, not so much as known in the borough, were named. This was practised in the most avowed manner in Cornwall, by the earl of Bath, who, to secure himself the groom of the stole's place, which he held all king Charles's time, put the officers of the guards names in almost all the Charters of that county, which sending up 44 members, they were for the most part so chosen, that the king was sure of their votes on all occasions." Burnet.

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Sir *Robert Sawyer.* This that you are moved for, an Address to be made to the king, is to remove a certain enemy to king James, and a certain friend to king William. From his Impeachment, there was a perpetual enmity betwixt king James and him carried on in this house, by king James's interest, for advising the king to send him beyond sea.

Sir *John Lowther.* The objection against this lord is his Impeachment. I have not seen great fruit of Impeachments; one was impeached (lord Clarendon) who died in France, and had no prosecution. To this lord as much is to be said, relating to the present government, as any man. If the king be sensible of his marriage with the queen, how can he resent this general Address to have him removed from him? If he has any secret designs of his own, notwithstanding the great service he has done, I think that argument of small weight, and should be sorry any such thing should go from this house. I have been told, he advised the prince of Orange to come hither, and his counsel swayed much; if so, it is a sign the king relied much upon him. Before I engaged with him at York, I never knew him, and his presence with us in the north was an encouragement to us to hope for success. Since the king came in, no man could apply himself with more industry, with that tender constitution of his, being eight hours together in the day in business. If dexterity of management could expiate, he has done as much as man can do, both for church and state.

Mr. *Ettrick.* I am sorry that, without doors, we are divided into parties—What can be a greater punishment to a man of honour, than to have an old Impeachment revived, and an Address to the king against him, as unfit to be near him, and to remove him? What can be more unfortunate, than for the king to tell you, he knows nothing of this lord, why he should remove him?

Mr. *Harbord.* The king's enemies will be glad to hear of the divisions among us on this occasion. This lord did two things remarkable in serving the nation; no innocent blood was spilt in his time, when the streets ran blood; and dissolving the Pensionary Parliament: and my lord of Bath sent assurance to the prince of Orange, 'That he would be for him whenever he landed.' It is unfortunate, that these two persons should be named. I dare not propose what to advise, but these animosities are not for the king's nor the kingdom's service.

Resolved, 'That a committee be appointed to enquire into the listing, assembling, and exercising of Papists, and other disaffected persons in arms, in several counties in the kingdom, without their majesties commission.'

The King's Speech at the Adjournment.] May 23. His majesty, in the house of lords, after passing the bill of Indemnity *, was pleased to speak to both houses to the following effect:

"My lords and gentlemen; I have had such assurance of your good affections to me, that I come now to thank you; and particularly for the Supplies you have given me. The season of the year is so far advanced, that I can no longer delay my going into Ireland; and therefore I think it necessary to have an adjournment of the parliament. And although it shall be but to a short day, yet, unless some great occasion require it, (of which you shall have due notice) I do not intend you shall sit to do business until the winter; and I hope, by the blessing of God, we then shall have a happy meeting. In the mean time, I recommend to you the discharge of your duties in your respective counties, that the peace of the nation may be secured by your vigilance and care in your several stations."

The lord chief baron Atkins afterwards signified his majesty's pleasure, That both houses should adjourn till the 7th of July.† On the 7th of July the house met, and was prorogued, by commission, to the 28th inst.; from thence to August 18; and from thence to September

* In this Bill, of all the late instruments of popery and arbitrary power, 35 only were expressly excepted, and of them, few or none were made examples to the justice of the nation. When the Bill was sent down to the commons, Mr. Baron Turton brought this message from the lords: "Mr. Speaker, his majesty has been pleased to send this Bill, which the lords have accepted, and passed, nem. con. and now send it down to this house." Though the commons immediately passed the Bill, they demanded a Conference, in which they intended to acquaint their lordships, "That it is unusual for either house to acquaint the other by what number any Bill before them do pass; and the introducing any alteration in the usual method of proceedings, may be of dangerous consequence." But a stop was put to this affair by the adjournment. See the Journal.

† The king set out for Ireland the 4th of June, attended by prince George of Denmark, the duke of Ormond, &c. On the 14th he landed at Carrickfergus, and on July 1, gained the famous Victory of the Boyne, which obliged king James to return to France, and was a prelude to the reducing of Ireland. In the mean time, England was threatened with a French invasion, their Fleet having entered the channel; and, on June 30, with a superiority of 70 sail to 50, it came to an engagement with the English and Dutch, under the earl of Torrington, near Beachy in Sussex; but, though the advantage was on the enemy's side (the Dutch losing six ships, and the English one) no descent was made, the French being contented with insulting the coast; and nothing could exceed the prudence and activity of the queen's measures. The earl of Torrington, being charged with misconduct, was sent to the Tower; and though he was afterwards acquitted by a court-martial, he was dismissed from his employments by the king. His majesty returned to England, Sept. 6.

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8.—On the 8th of Sept. the house again met, and immediately adjourned to the 11th instant; from thence to the 12th; and from thence it was prorogued, by commission, to Oct. 2.

SECOND SESSION OF THE SECOND PARLIAMENT.

The King's Speech on opening the Session.] Oct. 2. Both houses met, when his majesty, in the house of lords, spoke as follows:

"My lords and gentlemen, Since I last met you, I have used my best endeavours to reduce Ireland into such a condition this year, as that it might be no longer a charge to England; and it has pleased God to bless my endeavours with such success, that I doubt not but I should have been fully possessed of that kingdom by this time, had I been enabled to have gone into the field as soon as I should have done; and, as is more especially necessary in Ireland, where the rains are so great, and begin so early. —I think myself obliged to take notice, how well the Army there have behaved themselves on all occasions, and borne great hardships with little pay, and with so much patience and willingness, as could not proceed but from an affectionate duty to my service, and a zeal for the Protestant religion.—I have already made it evident, how much I have preferred the satisfaction of my subjects before the most solid advantages of the crown, by parting with so considerable a branch of its inheritance; and it is no less apparent, that I have asked no Revenue for myself, but what I have readily subjected to be charged to the uses of the war. —I did, at my departure, give order for all the public accounts to be made ready for me against my return; and I have commanded them to be laid before the house of commons: By which they will see, that the real want of what was necessary beyond the Funds given, and the not getting in due time, that for which Funds were assigned, have been the principal causes why the Army is in so much arrear of their pay, and the Stores, both for the Navy and the Ordnance, not supplied as they ought to be.—Now, as I neither spared my person, nor my pains, to do you all the good I could, so I doubt not, but if you will as cheerfully do your parts, it is in your power to make both me and yourselves happy, and the nation great: And, on the other hand, it is too plain, by what the French have let you see so lately, that, if the present war be not prosecuted with vigour, no nation in the world is exposed to greater danger.—I hope therefore, there will need no more upon that subject, than to lay before you, Gentlemen of the House of Commons, the State of what will be necessary for the support of the Fleet and Armies, (which cannot possibly admit of being lessened in the year ensuing) and to recommend to your care the clearing of my Revenue, so as to enable me to subsist, and to maintain the charge of the Civil-List; the revenue being so engaged, that it must be wholly applied, after the 1st of Nov. next, to pay off the debts already charged upon it; and therefore a present consideration must be had of the arrears of the army, which shall likewise be laid before you, and for all which I must desire a sufficient and timely supply.—It is farther necessary to inform you, that the whole support of the Confederacy abroad will absolutely depend upon the speed and vigour of your proceedings in this session.—And here I must take notice, with great satisfaction, of the readiness which my subjects, of all degrees, hath shown, both in this city, and in their several counties, by giving their assistance so chearfully as they did in my absence, while the French Fleet was upon our coasts; and, besides this so convincing mark of the good inclinations of my people, I have found, through all the countries where I have passed, both at my going into Ireland, and in my return from thence, such demonstrations of their affections, that I have not the least doubt but I shall find the same from their representatives in parliament.—I cannot conclude, without taking notice also, how much the honour of the nation has been exposed by the ill conduct of my Fleet, in the last summer's engagement against the French: and I think myself so much concerned to see it vindicated, that I cannot rest satisfied till an example has been made of such as shall be found faulty upon their examination and trial; which was not practicable while the whole Fleet was abroad; but is now put into the proper way of being done as soon as may be.—My lords and gentlemen; I look upon the future well-being of this kingdom to depend upon the result of your counsels and determinations at this time; and the benefit will be double, by the speed of your resolutions; insomuch that I hope you will agree with me in this conclusion, That whosoever goes about to obstruct or divert your application to these matters, preferably to all others, can neither be my friend, nor the kingdom's."

The houses then adjourned to Oct. 6, when it was Resolved, nem. con. That an humble Address of Thanks be presented to his majesty, for his going into Ireland and hazarding his royal person for the reducing thereof; and congratulating his success, and happy return: And a committee was appointed to prepare it.

Resolved, nem. con. That it be an Instruction to the said committee, to assure his majesty, in the said Address, that this house will assist and support his majesty and his government to the utmost of their power.

Resolved, nem. con. That an humble Address be presented to her majesty, acknowledging her gracious government during the absence of his majesty, and returning the humble Thanks of this house for the same: And the same committee was ordered to prepare it.

Oct. 8. The privy counsellors of the house were ordered to move his majesty, That a State of the War for the year ensuing might be laid before the house.

Oct. 9. The earl of Ranelagh, pay-master of the Army, acquainted the house, That he had, by his majesty's order, prepared a List, or State of the Land Forces, for the next year ready;

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and that his majesty had declared, "That no more thereof should be used within his own dominions than were absolutely necessary;" and that, besides what the said State amounted unto, the Army was in arrear 800,000*l.* And he delivered in the said State, or List, amounting in the whole, horse, dragoons, and foot, to 69,636 men, and 1,910,560*l.* 7*s.* charge.

Then sir Thomas Lee, one of the commissioners of the Admiralty, presented the house an Estimate of the Navy for the year ensuing, including the Ordnance, amounting in the whole to 29,026 men, 1,791,695*l.* 1*s.* 6*d.* charge; both which Estimates were referred to the committee of supply.—The Officers of the Ordnance demanded for the ensuing year, one eighth part of the whole charge of the Navy, and one fifth part of the charge of the Army.—A Supply was voted for the entire reduction of Ireland, and securing the peace of this kingdom, and carrying on a vigorous war against France.

Oct. 9, p. m. The house attended their majesties with their Addresses, to which the king replied, "All Addresses from the house of commons are agreeable to me, especially such as express such a respect and affection to my person as this does: I shall always pursue the good and interest of the nation."

The queen answered, "I thank you, gentlemen, for your Address, and I am very glad that I have done any thing to your satisfaction."

Oct. 10. The Estimate of the charge of the Navy was voted reasonable, and the sum was ordered to be raised accordingly.

Oct. 13. A Supply was voted to their majesties for maintaining of an Army of 69,636 men; and Oct. 14, the sum of 2,294,560*l.* was voted for that purpose.

Oct. 16. Towards raising the Supply, an Assessment of 137,641*l.* 18*s.* 2*d.* per month, for twelve months, was ordered to be charged on Land, and a Bill was ordered in accordingly.

The Earl of Torrington *, having desired to be heard before the house, touching the matter for which he was in custody, he was brought thither by the marshal of the admiralty, and heard, Nov. 12, and his lordship's relation of the Engagement was delivered in by Mr. Henry Herbert, Nov. 17.

Nov. 21. A Bill for doubling the Excise on Beer, Ale, and other liquors passed.

The King's Speech to both Houses.] Nov. 25. His majesty come to the house of lords, and after passing several Bills, made the following Speech:

"My Lords and Gentlemen; I take this occasion, with great willingness, to assure you that I am extremely sensible of the zeal and chearfulness of all your proceedings in this session of parliament, and of the readiness which you, gentlemen of the house of commons, have shown in granting such large supplies towards the pressing occasions of the Navy and Army. And I do farther assure you, that I shall not be wanting, on my part, to see them exactly applied to those uses for which you intend them. At the same time, I must observe to you, that the posture of affairs abroad does necessarily require my presence at the Hague before the end of this year; and, by consequence, I must desire you to lose no time in the dispatching and perfecting such farther Supplies as are still necessary for the Navy and Army, and not for them only, but it is high time also, to put you in mind of making some provision for the expence of the Civil Government; which has no Funds for its support, since the Excise, which was designed for that service, and also the other branches of the Revenue, have been applied to other public uses; and, therefore, I earnestly recommend it to your speedy consideration."

Report concerning Impeachments.] Oct. 30. A Report was made from the committee appointed to inspect Precedents, whether Impeachments continue in statu quo from parliament to parliament, of several Precedents brought from the Tower. After the consideration of which Precedents, and others mentioned in the debate, and reading the orders made the 19th of March, 1678-9, and the 22d of May 1685, concerning Impeachments: and after long debate thereupon and several things moved, the question was put, Whether James earl of Salisbury and Henry earl of Peterborough * shall be now discharged from their bail? It was resolved in the affirmative.

Dec. 20. The substance of his Speech the king repeated (after passing several bills) urging them "to use all possible dispatch, as the posture of affairs abroad would not admit of deferring his journey much beyond that time."

Dec. 23. A Bill was passed for attainting persons in rebellion in England and Ireland, and for applying their estates towards the charge of the war.

Dec. 24. A Sum not exceeding 570,000*l.* was voted to their majesties, for the building of 17 third rate Ships of 80 guns each, and 10 fourth rates of 60 guns each, as desired by his majesty in his last Speech.

The King's Speech at the close of the Session.] Jan. 5, 1690-1.—The king, impatient to be at the congress in Holland, came to the house of lords, and, after passing all the Bills that were ready, made the following Speech:

"My lords and gentlemen; Having lately told you, that it would be necessary for me to go into Holland much about this time, I am very glad to find that the success of your endeavours to bring this session to a happy conclusion, has been such that I am now at liberty to do it. And I return you my hearty thanks for the great dispatch you have made in finishing the Supplies you have designed for carrying on the War; which it shall be my care to see duly and punctually applied to that service for which you have given them. And I do like-

* See page 648, Note.

* The crime these lords were charged with was being reconciled to the Church of Rome.

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wise think it proper to assure you, that I shall not make any grant of the forfeited lands in England or Ireland, till there be another opportunity of settling that matter in parliament, in such manner as shall be thought most expedient.—As I have reason to be very well satisfied with the proofs you have given me of your good affection in this session of parliament, so I promise myself the continuance of the same at your return into your several countries. And as every day produces still fresh instances of the restlessness of our enemies, both at home and abroad, in designing against the prosperity of this nation, and the government established, so I do not doubt but that the union and good correspondence between me and my parliament, and my earnest and constant endeavours for your preservation on the one hand, joined with the continuance of your zeal and affection to support me on the other, will, by the blessing of God, be at all times too strong for the utmost malice and contrivance of our common enemies." *

The lord chief baron Atkins then declared his majesty's pleasure, That both houses should adjourn to March 31 next ensuing, which they did accordingly *.

March 31, 1691. The house met, and by her majesty's pleasure adjourned to April 28, from thence to May 26, when it was prorogued by commission to June 30: from thence it was prorogued to August 3, from thence to October 5, and from thence to October 22.

THIRD SESSION OF THE SECOND PARLIAMENT.

The King's Speech on opening the Session.] Oct. 22, 1691. The houses met, when his majesty, in the house of lords, made the following Speech to both houses:

"My lords and gentlemen; I have appointed this meeting of parliament as soon as ever the affairs abroad would admit of my return into England, that you might have the more time to consider of the best and most effectual ways and means for the carrying on of the war against France this next year.—I am willing to hope, that the good success with which it hath pleased God to bless my arms in Ireland this summer, will not only be a great encouragement to you to proceed the more chearfully in this work, but will be looked upon by you as an earnest of future successes, which your timely assistance to me may, by God's blessing, procure us all. And, as I do not doubt but you will take care to pay the Arrears of that Army, which hath been so deserving, and so prosperous in the reducement of Ireland to a peaceable condition, so, I do assure you, that there shall be no care wanting, on my

* "No session of parliament, in the course of this reign, discovered greater unanimity, loyalty, and liberality, than that which now comes under our observation. The decided superiority of the Tories over the Whigs, in all their conflicts during the preceding session, had damped the spirit of enterprise in the latter, and suggested to them the wiser policy of endeavouring to regain power by concession and complaisance, rather than by open and violent opposition to the measures of the court. A considerable proportion of offices were still left in their hands, and some incidents encouraged them to hope, that, by a gentle and natural progression, their influence in the cabinet might again prevail, and be established. Lord Godolphin, who now began to associate with the leaders of the Whigs, was placed at the head of the Treasury, in the room of sir James Lowther. Sir John Somers held the office of Solicitor General, and by his abilities and virtues, was every day gaining upon the confidence of the king. The Whigs had lately augmented their stock of merit, and strengthened their claims to royal favour, by the readiness and liberality with which they had subscribed to the public Supplies, while their antagonists, preferred to them in trust and office, discovered either want of confidence in the stability of the present government, or want of attachment to it, by being averse to trust their properties in the funds. They enjoyed also a splendid triumph, by still maintaining superior influence in the city of London, notwithstanding the popular and powerful engines which the Tories employed to wrest it out of their hands, by restoring the Charter of the city, and dispensing the favours of the court. The office of mayor, the most honourable, and that of chamberlain, the most lucrative in the city, were filled by Pilkington and Robison, both distinguished partisans of the Whigs." Somerville.

* The king set out for Holland the next day, but the wind being contrary, he returned to Kensington on the 9th, and seven days after set out again, and after a very dangerous voyage, landed on the 18th. Soon after a most numerous Congress of sovereign princes was held at the Hague, at which king William presided, and where it was resolved to employ 222,000 men against France, of which England was to furnish 20,000. However, the French were so early in the field as to besiege Mons, March 5, and to oblige it to surrender April 1. The king being unable to raise the siege, returned to England April 13. In his absence a Plot had been discovered for restoring king James, laid by the earl of Clarendon, the bishop of Ely, (Dr. Turner), Lord Preston, and his brother, and Penn the Quaker, for which Ashton, a servant of king James's queen, was executed January 28. The king set out again for Holland to take the command of the allied army, April 30, but nothing material ensued in Flanders. Gen. Ginkle completed this summer the reduction of Ireland, by the taking of Athlone, June 30; the victory at Aghrim, July 12; and the taking of Limerick, October 3; for which services he had a pension, and the Thanks of the house of commons, and was created earl of Athlone and baron Aghrim. The events at sea were inconsiderable. The king returned to England October 19.

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part, to keep that kingdom as far as it is possible from being burdensome to England for the future.—I do not doubt but you are all sensible, that it will be necessary we should have as strong a Fleet next year, and as early at sea, as we had this summer; and I must tell you, that the great power of France will as necessarily require that we should maintain a very considerable army, ready, upon all occasions, not only to defend ourselves from any insult, but also to annoy the common enemy where it may be most sensible to them; and I do not see how it is possible to do this with less than 65,000 men.—I shall only add, that by the vigour and dispatch of your counsels, and assistance to me in this session of parliament, you have now an opportunity in your hands (which, if neglected, you can never reasonably hope to see again) not only to establish the future quiet and prosperity of these kingdoms, but the peace and security of all Europe."

Both houses congratulated his majesty upon his safe and happy return after so many hazards to which he had exposed his person, and upon the success of his arms in the Reduction of Ireland; and at the same time they assured him, they would assist him to the utmost of their power, in carrying on a vigorous War against France, in order to procure an honourable and lasting peace to his own dominions, and to secure his neighbours from the injuries and invasions of the Common Oppressor.—They also addressed the Queen, and acknowledged her prudent Administration of the Government, during his majesty's absence.

Oct. 28. A Bill was brought into the commons, 'For Abrogating the former Oaths of Allegiance and Supremacy in Ireland; and appointing the Oaths to king William and queen Mary:' which, after two or three conferences between the lords and commons, passed both houses, and had the royal assent.

The Thanks of the Commons given to General Ginkle.] The commons ordered the lord Castleton, sir Henry Goodrick, and five more of their Members, to attend general Ginkle, with their Thanks to him and his Officers, for the great services they had done towards the Reduction of Ireland. To which the baron replied, "I acknowledge this distinguishing honour done me by the house of commons, and value it above a triumph. The success of their majesties arms in Ireland, was owing chiefly to the valour of the English; and I will take care to communicate the Vote of the House to the Officers that served in Ireland, and always endeavour the prosperity of their majesties and their government."

Estimates for the Year 1692.] Nov. 9. The earl of Ranelagh, by his majesty's order, delivered in a List of what Forces the king thought necessary for the next year's service, amounting in the whole, horse, dragoons, and foot, to 64,924 men, and 2,255,671*l.* 15*s.* 2*d.* annual pay; and acquainted the house, "That how these Forces should be distributed, his majesty had not yet resolved; but that, howsoever, the king had commanded him to tell this house, That he will keep no more of them in his own dominions than what he shall judge absolutely necessary for their security, and the rest he will transport beyond seas, in order to annoy the common enemy, where it may be most sensible to them."—And sir Rd. Onslow presented to the house an Estimate of the Charge of the Navy, for the year 1692, amounting in the whole to 30,000 men, and 1,855,054*l.* charge, both which Estimates were referred to the committee of supply.

Debate on the Supply.] The house went into a grand committee on the Supply.

Mr. *Foley.* The government, for three years past, eleven millions! Never so much was paid to the Navy and Army; and I know not why a third part of eleven millions may not carry on the war for one year. A great deal has been anticipated of what we have given already.

Col. *Austin.* I believe all are unanimous, that a Fleet is necessary. It is a great charge, and necessary it should be so. You found the effects of the Fleet short last year. These 30,000 men laid at a medium, I should be willing to hear any thing to lessen the charge.

Sir *Tho. Clarges.* None in this house but think a good Fleet necessary. You had a good fleet last year, and if they had had courage, you might have had a better account from them, having more men, tonnage, and guns, than heretofore; and they had not gone before the enemy last year. We are trusted by the people, and are not to make profusion of their treasure. When we had war with France and Holland, we had not 30, nor 25,000 men: Must all the Fleet be seamen? You will not put your landmen, I hope, only to mount the guards. It is fit they should go upon the fleet. I move, That the committee may examine these particulars. We have been used to these things, and must not lump these things, but examine them. We have flag-ships more than the establishment. When we know more of these things, we may do all that is needful, but nothing that is unnecessary.

Sir *Christ. Musgrave.* You have a great matter before you, and it deserves great consideration; and yet it is endeavoured to have little time for so great a work. You are desired to read over the Particulars, head by head, and grant it. Has the Estimate the several Rates * of Ships? Without that, we can make no computation of men. Every body is for having a Fleet, but is it sufficient that the admiralty do give you in 30,000 men, for you to give money upon it? I find intelligence better at the latter end of the year than the middle: I would know how the French ships came out of Dunkirk †? In the Estimate of 4*l.* 5*s.* a head per month that will require great

* Neither the Rates, nor Numbers, of the Ships, were mentioned in the Estimate.

† To this, admiral Russel answered, "That the Dutch refused to go to the blockade of Dunkirk, till their compliment came up."

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time how to be made out. When that is given in, I suppose the ships will be in the condition they were in, except in powder and shot; and of that, I suppose, not much spent; and that must make that out still of the 4*l.* 5*s.* per head. It was told us, 'The Vote of 30 ships would give great credit;' but is the naval force to be kept all the year round? We were told they were to be laid up, and now we must pay them as if abroad—And it ought not to be said, 'That, if we do not give speedily, we obstruct the king's business.'

Sir *John Lowther*. I do not remember that I said those things I am charged with, of 'obstructing the king's business, &c.' I am far from imposing. I desire to have your justice in this.

Sir *Christ. Musgrave*. Lowther said, 'If we delay, and if the Supply be not immediately considered, the barriers of Flanders may be lost.' But if consideration will produce such fatal effects, then you may vote it immediately.

Sir *Tho. Clarges*. I think it is for the king's service, and not delay, to examine things. All the equipage for Ireland, men, and what belongs to the army, may be done for 450,000*l.* At first sight, it seems to me 3*l.* a man will do. We were not out last year till the 20th of June, and if not sooner out next year, we are miserable. In April, we were told they were all ready. I hope we may advise, whether they are too many, or too few. I know not any thing of 'Barriers;' but pray let us be strong at sea; but not hand over head to do things.

Col. *Austen*. As for the French ships going out of Dunkirk, a man that has not heard of it, lives very privately. Upon enquiry, you will find they came out on the Dutch side, and not on ours.

Sir *Ch. Sedley*. If one member sits in the house in his buff-coat, and another in his shirt, one will be sweltered, whilst the other's teeth chatter in his head.

A Committee was appointed to inspect the Estimate of the Navy for the year 1692, and to report their opinion.

Enquiries into the Conduct of the Fleet.] Nov. 12. The commons were acquainted, that Mr. Bridges, a member of their house, could give an Account of an information given him by a captain in their majesties Fleet, that sir Ralph Delaval, one of the admirals, had lately taken a French boat going for Ireland, with Papers of dangerous consequence to the government. The house ordered Mr. Bridges to name the person, and he named the lord Danby, son to the marquis of Carmarthen. A conference was then desired with the lords upon matters relating to the safety of the kingdom, but the business did not turn out as was expected. There was no Copy of a Letter from the earl of Nottingham to sir Ralph Delaval, in the intercepted Packet, only a Letter from the earl to sir Ralph, desiring him to send up that packet; so that storm blew over. The commons regulated the Payment of the Forces by effective musters; and enquired into the Miscarriages of the Fleet, the admiralty papers being laid before them, by two of the commissioners, admiral Russel and the lord Falkland; but these Regulations and enquiries raised more than answered the expectations of the people, and were afterwards thought to be intended rather to delay matters than amend them.

Dr. Welwood reprimanded by the House.] About the same time, Dr. Welwood, a physician, noted afterwards for his Memoirs, published a Weekly Paper, entitled, 'Mercurius Reformatus,' but his zeal having carried him farther than was agreeable to the house, on whose proceedings he seemed to reflect, he was ordered into custody of the serjeant at arms, and reprimanded by the Speaker, when he was discharged.

Debate on the Bill for regulating Trials, in Cases of Treason.] Nov. 18. An ingrossed Bill for regulating of Trials in Cases of Treason, was read the third time.

Sir *Charles Sedley*. Good kings, good lawyers, and good judges, are perishable commodities. If the duke of Somerset, at his Tryal, had had counsel, he had not omitted demanding the benefit of clergy. An impotent, lame, or aged man, by law, had his champion. Good-enough was one that Cornish hated; and it was not probable he would commit a secret to him. Cornish had Evidence for him, but not to be believed, because not upon oath; but I find sheriffs and juries are not provided for in the Bill.

Mr. *Finch*. If any thing in this bill be for weakening the government, I am against it; but if not, I am for it. What is there in this, that makes it easier to commit Treason, or less tryable, than before? all that is desired, is a just and lawful defence, at a man's trial. But will you say, the government is weakened, because a man has an easier way of defence? What are the parts of the bill that are new? a copy of the indictment, and witnesses for the prisoner upon oath, and counsel, that's new, and no overt act to be given in evidence, but what is laid in the indictment. Now, in all this, where is the mischief to the government? Shall it be said, that a man may commit Treason safely, with a copy of his indictment, and witnesses sworn to tell truth? there must be proofs of the overt act, and one is sufficient, and he prepares accordingly. As, a consultation to destroy the king in such a place, and a man proves himself in another place, and must recollect himself where he was, and have witnesses to prove it: this has been so practised. This provides (that the prisoner may be enabled to make his just defence) that he shall know all the facts charged against him. Suppose but one overt act, that must be laid; and it does not discover the king's evidence; where is then the objection, that two overt acts be laid? this is far from giving protection for Treason; but gives opportunity to the prisoner to make a fair defence. If a man be witness to the Treason, he is so still, though witness to the confession. I would have no man start that objection, 'That

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less than two witnesses is sufficient.' But there was a time when one witness was allowed, by no less a man than judge Popham, in sir Walter Raleigh's case. You take not away his confession: The words of the Bill are, 'Unless he confesses in open court, &c.' All you do provide, is, that there shall be two witnesses; but if he confess in open court, and the court record the same, that alters the question. Standing mute is a confession of the fact, though the prisoner forfeits not his lands, nor attaints his blood. But to throw this bill out, gentlemen must say, there is not one good thing in it. There is nothing made new in the bill, that makes an impunity for treason. That the copy of the indictment is to be delivered to the prisoner, in ten days, if he requires it; it is good in Middlesex, if he requires it, but not in country assizes, which cannot stay so long. If a man be to be tried for Treason, and the safety of the government be concerned, there may be a special commission of Oyer and Terminer; but it is said, 'That is to bring a farther charge upon the government;' but is there any comparison, that a man must lose his life for a few days stay? But a commission of Oyer and Terminer solves all objections of the safety of the government. The limitation of the time, for three years, cannot enervate the government; 'tis hardly possible to imagine, but that, in three years, the crime may be detected and prosecuted, or the person repent and be pardoned. Where then is the safety of the government concerned? 'Tis impossible he should not be detected in that time, or the thing repented of, and no ill effect of it. This may take away the venom that some persons may fall under after twenty years, and rake up a charge against a person.

Mr. Attorney *Treby.* Whatsoever is useful to the subject, and does not bring insecurity to the government, I am for. The lives of men are precious, but the lives of the king and queen are as precious, in which all our lives are bound up; and it deserves the highest consideration. This Bill was ushered in by reason of the hardship in the late times, in Trials for Treason; but I see little in the bill to obviate those miscarriages. The fault was not in the law, but in the men. When judges determine the law, in one case, one way, and in another case, another way, the judges convict themselves. In Fitzharris's Case, they were of opinion, 'That he ought to be tried by freeholders.' In col. Sidney's Case, all the judges of England resolved, 'That the law was not so.' If so, the greatest preservation of the people is to preserve us out of the hands of such judges, which I hope the Bill of Rights does sufficiently provide for. The best way is to preserve their present majesties, who, I hope, will never permit such men to come into places of judicature. In the preamble of the Bill, it is, 'That the prosecution of treason may be justly tried;' it seems to me improper. In treason, the blood of the heir is not corrupted; but he cannot derive from that ancestor. This bill extends to clipping and coining, and all the lesser parts of treason. The copy of the indictment can be of no other use than to inform the prisoner of the matter. 'Tis to enable him himself, but not to help the person by the slip of a word, or a letter, to evade trial. As for being allowed counsel, in every treason, it would make trials long; and all mens cases are alike, when dressed up by art of counsel. To the objection of evidence, two witnesses, or confession of the party, &c. perhaps he may have confessed the treason before a hundred people. If this be the evidence, you take from the crown; he may brag of the treason before a thousand people, and go unpunished. Here in London, when the term comes at Essoign day, the sessions cease, and the prisoner cannot be tried, unless by a new commission; and counsel must attend the trial of the meanest clipper or coiner. All criminal justice is best done *flagrante crimine.* If a man clip or coin, what will his repentance signify, in three years, when all the money is spoiled? This bill does so much weaken the hands of the government, that it ought not to pass. If you resolve that the bill shall be rejected, no part of it can be brought in again this session. I would preserve any part of the bill that is useful, but not pass it as it is.—The Bill was then passed.

This day, 1,575,890*l.* was granted for the Charge of the Navy, including the Ordnance, for the year 1692.

Nov. 19. The earl of Ranelagh, by his majesty's order, laid before the house a distribution of the Land-Forces, mentioned in the Estimate, viz. 10,916 men in England, 12,960 in Ireland, 2,638 in Scotland, and 960 in the West Indies. Total 26,874. Remain to be transported beyond seas 38,050.

Debate on the Supply.] The house went into a grand committee on the Supply.

Mr. *Foley.* Consider what our state is, besides Land-Tax, and Excise, &c. If you find yourself at a loss for Money, and must anticipate, you must double your land-tax, and at last pay half your revenue. I see not why we should raise so many men, and maintain them. You are told, 'That it is to make an end of the war at once.' But suppose the French beat us; and what hopes have we, if the Fleet be in no better hands?—I am of opinion, that a lesser number of men may serve for a diversion. I fear things are not rightly represented to the king. Suppose we land, and take a French port, and then you engage for ever after to keep footing in France. In the Rolls we find, that, when Money was asked by Edw. 3, to maintain what he had conquered in France, the parliament answered, 'They were concerned only to keep England, and not what was conquered in France.'

Sir *John Guise.* Foley said, 'He could not consent to the number of men proposed;' but he tells you not why. I suppose we are to defend ourselves by sea. You have two thirds of the Fleet, and the Dutch one third. If the mouths of their rivers be taken away, their

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strength is taken away; and how can they supply you? If you did so distress the French last year, much more now, as you can draw your men out of Ireland. Have you brought France to this pitch, and will you leave it? When I voted a War against France, I was in earnest, and I have not abated since this war. I see not that any body wears less, spends less, or does less, than before. It is not only honourable, but safe, for you to continue your number of men.

Sir *John Thompson.* I know not for others, what they have done; but I have found decay in my little income; and we have every where complaints. If we consider what merchants have lost, and money carried abroad, and that foreign merchants carry out your freight, I think it is a sign we are poor. I would have this so carried on, as to have something to give when we come again. I may make a conclusion, though not able to make premises, in the war. If we cannot force France to a battle, you will do as little next year, as you have done in this. In the several Heads given you in, there are 12,000 men for Ireland, and yet you have been told, 'That it would support itself;' and 10,000 men for England, and we had not near so many when the French invaded us. Really I am afraid of a Standing Army. We have the skeleton, though not the body, of the forces. I look upon this war with France to be merely a colour. Pray put the thing Head by Head.

Sir *Christ. Musgrave.* You have several Heads before you, and proper, as has been moved. It is an irregular motion, 'To put it Head by Head.' If you vote, 'That 65,000 men are to be the number,' then you bring Scotland and Ireland on your head. Pray therefore put the first general question 'for England.'

Sir *Tho. Clarges.* You have been told of the confederacy, 'That you might lay hold of this opportunity to keep them.' I was, and am, of opinion, that our coming into the Alliance is a greater strength to the confederates, than any force by land, and far more able to distress France, and that the most natural way is to continue the war, where he grows so great, by sea; if we would make ourselves masters of America, and recover what we have lost there. As we are an island, we are to consider, that, if the French have all the seventeen provinces, and we are superior at sea, we may still be safe, and for what belongs to us. But in the aid required of us, though Ireland is reduced, yet there is but an abatement of 4000 men. To prosecute the War *totis viribus* must be understood. When in parliament, former taxes were the sparable part of our estates, if we are unsuccessful in this war, what will become of us? I desire that we may manage this war with as much frugality as we can. I am sure that 16,000 men did recover Ireland formerly.

Sir *Robert Howard.* First we are told, 'We are not able.' If so, then there is an end; but as to that, I hope we are able. Next we are told of 'an Army to enslave us;' but no danger of that under a king that has courage. In the former reign, there were great preparations against France, and nothing done. I hope to see an English army act by itself, and the king at the head of it. If your Navy be strong, and in conjunction with the Dutch, you will provoke the French to come out with their fleet, and you may land where you please. The king is clear in all points with you; there is no mistrust in him; and therefore I would leave it to the king's judgment, for the number for beyond sea; and you may, I hope, from hence send all the provisions.

Sir *Tho. Clarges.* That the king is a valiant and wise prince, all agree; but he acts by advice; and so it is sent to us; but if we do not come up to the desires of such men, then we are told, 'We are against the king, and hinder his business.' I hope we shall hear no more of that; we are all here to advise what is to be done; but this great sum demanded for those men is half the current cash of the nation, and if we maintain an army of 40,000 men abroad, I fear we shall have none left for common defence another year.

Mr. *Hampden.* I have heard reflections formerly, but if a gentleman speaks in commendation of his prince, it is no reproach upon a man, who, in his speech, says nothing of it; but I do think a Standing Army is dangerous. But when it is said, 'The matter of the war with France is but a colour.' Do you think France will use you well that you may put yourselves into his hands? I know, that in my country the middle sort are willing to carry on the war; but if I hear or see nothing against this number of men, if you have hopes that the lion is not so fierce as he is painted, I hope you will agree to the number.

Sir *John Thompson.* As for the descent upon France, I have heard of orders for 16,000 horse and foot to march through the heart of England. 'A colour,' is the appearance of an argument, with really no force in it; a figure: No man is to be offended at the commendation of the king, but when an argument has not force in itself to force its way, that calls me up.

Mr. Attorney *Trebn.* This discourse is of so great a nature that all gentlemen engage in it. It propounds to dissect the articles, and take them Head by Head. I am against it. When you had the List of the Fleet, you did it by the lump, and I think there is the same reason now. I take all to be one Army, 33,000 beyond sea, and so the less need here. No part of your freedom ought to be taken away. Freedom of debate here is as tender as the apple of the eye, and as general all over England. You come here with 'local wisdom,' as lord Bacon calls it. I speak a positive truth, when I say, the king is a great captain. But to clear some objections to the king's Speech. If the Confederacy break, the Germans disband, and the Dutch make peace, and truckle under France, then you cannot possibly be defended without a Standing Army, and standing

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Fleet too. The naval force, all the world over, is in the French hands, and yours, and how far may the Dutch, in conjunction with the French, (and we alone,) undermine us? The war was your advice for trade, and you resolve to go through with the war, to secure your trade, that it may be no longer in his power to disturb England; and that is the end you would be at. The question is then, Whether you can do this without such a force as this? I would answer one objection, viz. 'Not to give such a Supply as to conquer France.' I know not how we shall conquer Paris, but I would not have France conquer us. If we cannot carry this on, we have nothing left but prayers and tears; but I hope we shall not come to that. Can we think that France will use us better than his protestant subjects? Consider what we have promised the king: I hope we shall make it good. We have not, for a long time, had such a warlike prince as this. All this points to us what the king has said, 'If this opportunity be lost, we shall never have the same again.' I would not go through it by halves, but have such a force as the king may confide in. By doing it at one stroke, I hope we shall be secured from all this. It was said by a gentleman, 'That the French king knows what we do.' I believe it; I wish he did not know what we say. I do not doubt of what force the king has proposed.

Sir *Christ. Musgrave.* The proper question is, Whether to proceed Head by Head? Then consider, when you have voted 65,000 men, you engage to make that number good. If so, we must have the charge of all Ireland, and all Scotland. If so, to what purpose will you vote them, if you are not interested to maintain them? You are told, 'That if you vote them not, the allies will go off;' but last year they went in with their quota. It was never advised to keep our quota, and to go into France with a separate army. Possibly we may agree one Head, and not come up to the other. A general question takes away all liberty of debate. The Fleet to make a descent into France, is quite a different Head from the Army.

Sir *Thomas Clarges.* By the motion of a general question, our liberty to advise is taken away. You are told (by Capel) 'That queen Elizabeth was not limited;' there was not a number of men named, but the parliament gave two subsidies, and four fifteenths, and left it to her judgment, and when no extraordinary use was made of it, it returned to the subject again. They that give a negative, are not against an army, but what numbers they shall be limited to; proposing men differs little from money. It will look like a parliament of Paris; the king to propose, and they to verify it. Nothing of Scotland and Ireland is proposed. Let us not have sums and money, but Heads, proposed to us.

Resolved, "That it is the opinion of this committee, That an Army of 64,924 men is necessary for the service of the year 1692, in order to the securing the peace of the kingdom, and the carrying on a vigorous War against France." Which was agreed to by the house.

Nov. 25. The house went again into a grand committee on the Supply.

Sir *Tho. Clarges.* I find all Establishments, since the Change, are a third part more than formerly. This Estimate of 65,000 men is sufficient for 200,000 men. This war, I am afraid, will not be done in a year; therefore I would do it so as our estates may bear.

Mr. *Hampden.* This is most proper, when you come to particular parts of the Army. You may address the king to apply as much as may be of the Civil List to maintain the Army.

Sir *Tho. Clarges.* I know not the consequence of such an Address to the king in matter of money. I propose that the question may be 'That officers and soldiers may be included in this List.'

Sir *John Lowther.* The general-officers advised a greater number than the king has proposed, which are so many men, besides officers.

Sir *Tho. Clarges.* If 16,000 men in Ireland be commanded by Protestants, they will make 35,000. They are now warlike, and at the battle of Aghrim they were not above 18,000 men. A gentleman that knows well, a commissioner of the revenue in Ireland, said, 'That 6,000 men were sufficient to be sent into Ireland.' I would not have 36,000 men named, and not above 20,000 paid. I hope we shall have effective men, and no collusion nor deceit. Till the Militia were armed, there was no considerable service done in Ireland.

Sir *John Lowther.* I hope the number of men will not always be necessary, only for the present, since the expence, I hope, will be but for one year. I hope this exception, by a side-wind, will not cut off your intention.

Sir *John Thompson.* I wonder what Lowther means by 'A side-wind;' if there be any, it is the supernumerary forces. We voted but 65,000 men; if the Officers came to more, it was not in the Vote; and I appeal to the house, if they did not mean Officers? It could never be thought that you meant by your Vote an Army of men without officers.

Sir *John Lowther.* If that Vote did include officers, you are in the right. For ought I know, this cuts off several thousands of men;—and officers not being included, your Vote stands.

Sir *Tho. Clarges.* You have resolved upon 64,500 men. We went not Head by Head on the Estimate, but lumped it, and I thought not fit to ravel into that. Whatever was intended by any private person, who brought the Paper of the Numbers, &c. it was the Resolution of the house such an Army; and I am a little scandalized at this: I know not by what figure in rhetoric, 'Men' is without 'Officers.' You may raise the mob for an army, at that rate. The reason why I put in Officers now, is, because the house was deceived, for we find in the Accounts only for private men. By your Vote you may determine this matter.

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Sir *Henry Goodrick.* When Charles 2 declared war against France, in 1677, there were 1,000 men in each regiment, not including Officers. You have precedents for this demand; if there be any precedents of Officers included, I am the most mistaken in the world.

Sir *Tho. Clarges.* He says, 'That in the year 1677, Charles 2's officers were not included in the number;' but then we had plain dealing, and the house went Head by Head; there were a hundred in a company, besides officers; but now you come to lump. Then we had our debate free: Now you come to vote what your Army consisted of, and what meant by the word 'Army.' You had 38 or 39,000 men paid in Ireland, and had not 20,000 at Aghrim battle. My question is a plain question, 'That the numbers shall not be inclusive to Officers.' If we shall have more men than officers for them, I hope they will be reduced too.

Earl of *Ranelagh.* I stand up to inform you, that in every company of foot there will be eleven Officers, not included in the number of men set down. They will come to 11,000, in all, not included.

Sir *Tho. Clarges.* This lord tells you of what Numbers are given in; perhaps you will say, the same officers that now command 50, may command 100. When you include Officers, then you will provide Numbers and Men, and till you determine Numbers of Money, you cannot determine Numbers of Officers. Must it be taken for granted, that the house has no judgment in this matter? You did formerly resolve numbers in regiments, and till then you cannot tell numbers of officers. When you are come off from this of Ireland, the rest will follow.

Sir *John Lowther.* If you cut off 11,000 from your Vote, for ought I know, the king may come with such an unequal force, that he may be either beaten, or come off with a disbonourable peace.

Col. *Titus.* I was much startled when I heard of an abatement of 11,000 men. I never knew but three officers in a company. Drummers and pipers may be officers as well as others. If officers be no part of an Army, then some gentlemen are in the right.

Sir *John Lowther.* If 11,000 men will be deducted, I am not for that question. If officers, drummers, and serjeants, be deducted, I agree that three officers may be deducted.

Sir *Robert Rich.* I shall always stick to the true interest of the nation. To have a division for 2,000, I think not for the interest of the king nor the nation.

Sir *Christ. Musgrave.* I believe it not the intention of any man to lessen your Vote of 64,000 men; and I hope no intention to increase it. But to talk of an Army and not Officers, I believe the notion never entered into any man's head as tied to that Vote of 64,000 men; for it is not to lessen them.

Resolved, "That it is the opinion of this committee, that the 12,960 men for Ireland do consist of Officers and Soldiers, making up that number." Which was agreed to by the house.

Debate on the Accounts and Observations delivered by the Commissioners of Accounts; and on Secret Service Money paid to Parliament-Men.] Dec. 3. Sir *Tho. Clarges.* The lords have ordered the Commissioners of Accounts to send them their Accounts under their hands and seals. I would know, whether they should go in person to the lords, or are the commissioners to send their secretary with them?

Mr. *Tho. Howard.* I heard my name read in this Book of Accounts, for 50 and 100*l.* to Mr. Kingsmell and myself: both have had pensions from king Charles paid all this while, and in king James's time; and application has been made to this king, who made some objections to persons names; but it is in my name, and I do receive it. I am sorry it has gone so far. I owe all to the protection of the government, but nothing to the bounty of it.

Sir *John Thompson.* I stand amazed that, in the best times and governments, things should be in such darkness. I hope not to live to that day to see the house of commons one of the Grievances of the nation. When we see Grievances, I hope, if this house cannot take them away, it will not establish them. I believe we are under the best of kings, but never was so much goodness so abused. The Accounts are amazing things. We were told last session, 'Country gentlemen understood not Accounts,' and now, it seems, the Commissioners of the Treasury do not. If they understand not Secret Service, then they are not fit for their places. It is our misfortune, the person (Mr. Jephson) is dead that should give you Account. I would know, whether the secretary, or the lords, understand your Accounts? When they have directions from the king. So much given to Members. I am sorry money goes so little for merit as in former ages. Captains of ships put in for money: old methods will bring in new judgments. I am afraid some men have taken up old vices, which others have left. I would have this house begin with themselves. I do declare, I never had one penny from the king, nor ever will have.

Sir *John Lowther.* As to that part of the discourse of the gentleman that spoke last, I agree that I am not fit for my place in the Treasury. I shall be much easier out of it, and I hope I shall leave it. I remember an accident of that gentleman, at an accusation last session for drinking king James's health [was ready to faint away]. It is strange now to make reflections of being gagged by Offices. As for the Accounts, I dare be bold to say, some things are mistaken, and some of importance omitted, and nothing in them, but was transmitted last session. You have an Account of 18 millions, to raise a dust to blind you. All the Aids amount not to 11 millions, not much above ten. If you reckon the lawyers, and the money come out of the country, that is a double reckoning; but to say 18 millions, when in reality, not 11, is not fair. Not

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having yet had the copy of the Accounts, I cannot say much. As for king James's debt, upon the Revolution of the government, the Receivers did very wisely to pay themselves. The next thing objected to is, in the Accounts of Tallies struck, before money came in. It was for no more than 200,000*l.* borrowed of the City at a time, and that at the beginning of the year, when Sea and Land are at the greatest charges. People will not go on, if neither money nor credit. Some services press more than others, as Navy-Stores, wear and tear. If you strike not tallies of credit before hand, it will cost at the latter end of the year 2 or 300,000*l.* It had been worth the consideration of the Commissioners, to have consulted the several Offices of the Ordnance. I did hope this as well worthy of observation as the rest. For Secret Service, in the beginning of the reign, there was a great deal. Though remote from the Heads, you will find for the future much less, which now are put upon the proper distribution. As for Money to Members, you see all before you, and is there any thing like corrupting of votes? I believe, if all that sum were tendered to some persons, they would not do so base a thing; and if I would reflect upon the government, I should say it is a great fault in allowing so little Money for Secret Service. Cromwell gave more at a time for Secret Service, in the court of France, than all this comes to. For the plate of ambassadors to be returned, &c. there is now a Tryal depending with lord Castlemaine, and all diligence possible used in it. As to lord Griffin, in all ages, and at all times, Accounts have passed by privy-seal: and for the good of the subject it should be so. Shall Accounts be lost, and not have a discharge by privy seal? But if it be to the prejudice of the crown, or the subject, then it is a failure. For Ireland, the musters were taken in winter, when the Army was at the weakest, and the irregular time of the musters was to the disadvantage of the army, not of the nation. Thus things have occurred to me, as I heard the observations read; but there are some things that I wonder have escaped their observation, when Accounts have been sent three or four times back, and not perfected; and this is one of the crying shames of the government. The next thing is, how your Money is spent in the economy of the Navy? The king took his own dividend in the East India Company, 7,000*l.* to pay them, nay the very crown jewels, if I may say so. I should be glad any man abler than myself may be employed in the Treasury.

Sir *John Thompson.* I confess I am not so fit for employment as that gentleman; but should have been faithful, as I believe of him. I am not so angry as he, but, I observe, touch a place that is sore, and there will be some extraordinary motion. I cannot turn my words like a courtier. I wonder that gentleman should go so far back as the last session, when the house was satisfied with me. I was forced by king James to give 200*l.* for my *quietus* for my patent of barrister; so that I had no such intimacy with the government then. I never did accept of Bribes for my Vote here, nor ever was offered any. I did then clear myself, and I could wish that gentlemen would do so too.

Sir *Tho. Clarges.* Lowther has frankly arraigned the Commissioners, and I did expect you would have called him to the bar to have answered his Accusation. He tells you, 'The Commissioners have omitted several material things;' but the commissioners could not proceed farther, not having the particular Accounts of the Navy, Army, Ireland, or the Ordnance, before them. The commissioners did think fit to allow all the extraordinary charges upon Revolutions. My memory is not so good as to take all the Heads, as he has done; but what he says is an accusation. We cannot be wiser than God has made us, nor, I believe, that gentleman neither. Pray read the observations.

Sir *Robert Rich.* I thought, by Lowther's first speech, he had been a good accomptant, and he seems to be none at all, when he confesses he never read the Accounts. If the manner of the Account displeases him, we should have been infinitely obliged to him for his company, if his weighty affairs would have permitted him. But one expression is strange; to arraign the commissioners of casting a mist before the eyes of the house;—it was next to something else. He said it in that soft language before; he durst not say otherwise here. [Mr. Hampden took him down to Order, but proceeded not.]—I will not repeat the expression again, but nothing can be harder expressed. To the Observations, he said, 'There might have been more Observations.' I could have wished there had been occasion for none.

Sir *John Lowther.* I know not that it is a reflection for an omission to be taken notice of. I have had my share as hardly on that as any man. If a man's honour must not be vindicated here, I must take occasion to do it in another place.

Sir *Christ. Musgrave.* I would know why these Accounts were not brought to the commissioners in due time? The last session, provisions for Londonderry, and ships, lay here, ready laden, after it was relieved.

Sir *Tho. Clarges.* We sent out above 300 precepts the last time; the last time given was a day in June, but we had none of those Accounts, though sent article by article. We did desire, that the accomptants in Ireland should make oath there, and answer the Objections: We could not have those Accounts brought us in any time.

Sir *Stephen Fox.* I only desire to appeal to the commissioners, whether I did not appear according to their summons? They gave me liberty to state my Accounts in two months; but since, they could not take any more accounts till they made their report here.

Sir *Tho. Clarges.* If they did not obey our orders, we had no manner of coertion, as the commissioners of Brook-House, who had power of committing to prison upon contempt. I tell

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you in general, once for all, we have punctually observed your order in the Accounts of Incomes and Issues.

Sir *Christ. Musgrave.* If accomptants make not up their accounts in 3 years, what can the commissioners do, when the accounts of 1688 are not made up till 1689? I think it reasonable that, in a year and a half, they be brought to your auditor, when now all is in the dark.

Sir *Tho. Clarges.* When we called for the Account of the King's Houshold, we found some accounts not made up in ten years; as the king's Chamber, &c. Of the Taxes, since Charles 2, no account has been made these 30 years. I know not if greater business, or more profitable, has diverted them. The Exchequer is very exact in their method; but, if neglected, I know not where the fault lies.

Sir *Benjamin Newland.* We have set down, without altering one letter, as Mr. Jephson has delivered it to us. But for us to make alterations, it was not fit; but we have delivered it as we received it.

Sir *Christ. Musgrave.* You say, but 7 per cent. shall be given for interest, and they give 9 per cent. Your funds will miscarry, when you so increase your interest. As for the Land tax, it was a certain fund, and needed not to increase interest; at this rate, your interest will eat out all your funds.

Mr. *Waller.* It is plainly made out, that this is a breach of your act of parliament. I remember, an oath was proposed to be given to the lords of the treasury; they objected against that, because by it they should be obliged to pay the Bankers Debt. I hope we shall not pass this over without censure.

Sir *Tho. Littleton.* I take it, that this Fund of Credit was to take up money before it came in. The occasions of the government pressed them so far, that they could not take up half they wanted.

Sir *Stephen Fox.* We have ever struck tallies of anticipation; it is impossible, as this government stands, to have done otherwise; the necessity is unavoidable, and we had not done our duties to the nation if we had done otherwise.

Sir *Christ. Musgrave.* Your present consideration is, Whether tallies have not been struck before money was actually lent. If I heard right, I think it was owned they had struck for Seamens Wages, before the money was actually received. Our present question is, Whether tallies have not been struck before the money was actually borrowed? Lowther says, 'You paid the Dutch for the money they lent you;' but must you pay the interest, before the money comes in? Why paid we interest to advance money to them, when we might have had it at the interest allowed?

Mr. *Hampden.* The king did borrow money, and paid interest for it. The Dutch had not, nor desired interest, till the time the money came into the exchequer.

Sir *Wm. Strickland.* I question not, but that the commissioners of accounts will tell you who paid not for their patents for their Offices, and I hope you will make them refund. I have an account of those who have had Patents, and have not paid for them.

Sir *Edw. Seymour.* The commissioners of accounts, whom you have trusted in this service, have reason to be exempted from paying for their patents; but, as for other officers, it is hard the king should pay for the patent, and, as I hear, likewise to pay for their charges in executing that patent.

Sir *Robert Rich.* By all the inspections I have made, I find no such covenant made.

Sir *Robert Howard.* The king not only pays for the patent, but for the taxes of the profit of their patent.

Sir *Tho. Clarges.* I do not say, the Treasurer of the Navy is under the qualification of this Head. He has 3,000*l.* a year salary; but I think no fees can be taken by any officer whatever, but by act of parliament, or from time to time immemorial. I remember, Mr. Vaughan, (when a member here) did plainly and positively assert, 'That no officer could take Fees, but what have been used from time immemorial, or hung up in a Table, or settled by act of parliament.' We find great sums to Offices charged for Fees. We had power for the best of our service, and we sent to the greatest officers to know what fees. They said, 'They could not, upon oath, say 'Legal Fees,' but what had been taken formerly by other officers.' A poor captain, of 6*s.* 8*d.* a day, pays 6 or 7*l.* for his commission. When you have the persons, and subject matter, before you, then you are ready for Resolution.

Mr. *Foley.* The Receiver General of the Customs, in king Charles's and king James's times, had 1,000*l.* per ann. salary; the Comptroller of the Customs had 6 or 700*l.* per ann. By the new impositions, this brought his place even to Receivers of the Customs. For Mr. Kent's Fees, he alleges Lidcott for his precedent. Now he has 1,800*l.* per ann. so much as to maintain a coach and six horses.

Sir *W. Strickland.* When we grow poor, I would not have others grow rich. I would not increase Salaries, that had sufficient before. I hope they shall be made to refund, and be reduced to be as before. I would have the Commissioners of Accounts lay before you this Head, before you vote.

Mr. *Foley.* As for the Officers Fee-farm of the Customs, all other profits being taken away from them, it was thought fit they should have Pensions for life, and now 'tis continued to their sons.

Debate on Money for Secret Service to Parliament-men.] Sir *Jn. Lowther.* I think the words of the act of parliament are pursued. I dare say, this is not a matter at all that comes into the cognizance of the Commission of Accounts. The Lords of the Treasury think it a part of their duty, not to enquire into matters of state; as foreign Ministers, and Members of this house.

Mr. *Foley.* 'Tis said, by Lowther, 'That he thought not this fit for our enquiry.' Mr. Jephson would tell us what Pensions were paid to Parliament men, but not what sums. After

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Mr. Jephson's death, we had his clerk, Mr. Squib, before us, who said, 'It was the king's pleasure, not to have Account of sums of money, and it was a great deal for the king's service not to have sums named.' We have it, we received it, and lay it before you.

Sir *Charles Sedley.* This is new to our ears, and foreign to story. We give great sums, but must not receive. For service for the state, 'tis allowable; but for Secret Service, no parliament man ought to be ashamed. I am an old parliament man, but a young speaker. One in my company, when I was young, would needs give the fiddlers two or three pieces, though he loved music as little as I; but he went shares with the fiddlers. If the service can be distinguished betwixt the capacity of a parliament man, and Secret Service, let us know it. As it appears to me, it seems a reflection upon every member: therefore I would enquire into it.

Sir *W. Strickland.* For Secret Service of state, was formerly, in that parliament called 'The Pensioner Parliament.' If this was given for public service, let it be owned. This may be the reason we go on so slowly. Let every gentleman lay his hand upon his heart, and declare and vote, 'That whoever has received Money is an enemy to the king and kingdom, and the liberties of the people.'

Mr. *Goodwin Wharton.* If this comes to any great or considerable sum, as I hope it will not, it may endanger the government; as in king Charles 2nd's time, when the Books were brought before the house.* I hope you will do some such thing now.

Lord *Castleton.* The herd will not suffer wounded deer to herd with them. These sort of men endangered king Charles, and threw out king James; and God bless king William and queen Mary!

Mr. Comptroller *Wharton.* I stand not up to oppose any motion; for indeed you have not any regular motion before you. But, since I hear a gentleman's name (Mr. Jephson) who is not alive to answer for himself, I had a friendship for him, and I think he did deserve it, and would not have had a hand in any such thing. Something he told me, after he had been with the Commissioners of Accounts, and positively he affirmed, 'That no sum of money was paid, but what was very justifiable.' And the nature of the thing he told me too. Sums were given to two members, for discoveries; the members never touched it themselves, but handed it to two persons who made the discovery.

Sir *Tho. Clarges.* We did send to Mr. Jephson, who did open himself very reasonably in the matter. He thought the precept was not full, and desired it to be explained; and he had it in the words he desired: he then did tell us, as Mr. Wharton has said, 'That it was for a service of such a nature, that he thought it of no service to the Commissioners to have it known; but if they insisted upon it, they should have it,' but a week after he died.

Sir *Robert Rich.* When Mr. Jephson was pressed, at our Board, he was asked, 'What he hesitated at?' he said, 'Some in both houses were concerned; in the one and other house four.' He said positively, 'It was not for their own use, but upon discoveries to others; but positively not to themselves.'*

Ordered, "That the Commissioners appointed for taking the public Accompts do lay before this house, 1. A List of all such persons who have Salaries, and have made the king pay the Charge of passing their Patents, and passing their Accompts, as also the Taxes upon their offices. 2. A List of those that have great Salaries, and have upon slight pretences, got them increased; and who have had extraordinary Bills of incident Charges easily allowed. 3. A List of the Salaries which were granted upon special reasons; and which are still continued, though the reasons are ceased.—4. A List of the excessive Fees that are exacted and taken by the Officers that have great Salaries allowed them for execution of their places, and for which no legal precedent appears to justify the same."

Debate on Fuller's Information.] Dec. 9. Mr. Fuller,† upon his request, was brought to the bar of the house of commons to make his discovery, &c.; who gave an Account of his intrigue with the Lords in the Tower, prisoners; and, 'That they sent Letters and Messages by him to the late queen, and the French king.' He then proceeded as follows:—"One of the letters from the earl of Aylesbury I opened, which assured the queen of his fidelity, and desire 'That the French would send 30,000 men, and he engaged to rise by June next, and they should be ready to receive them.' This was in February last. Two Letters were sent to the late queen, in a bone of mutton, one from the earl of Feversham. Several of both houses did promise such matters as to cause the people to rebel. The earl of Litchfield intreated, 'That the landing might be in June or July, and he would be ready, when the French land-

* See vol. iv. p. 1142.

* It was whispered, 'That part of this money (20,000*l.*) was for the purchase of Nottingham house, at Kensington.' Grey.

† "The amusement given to both houses by this William Fuller was one cause of delay to the Supplies. The Conspiracy of the Papists in Lancashire to raise a Rebellion in the kingdom, in order to introduce king James, was attested by several witnesses, which the Jacobites were so dexterous as to take off, either by fair, or violent means. But, nevertheless, their sinister designs being confirmed by the Papers taken with lord Preston, and several other circumstances, which amounted to an actual demonstration, some persons of note were secured, and search made after others; which brought the business to be examined before the commons. At this juncture, Fuller, who was a prisoner in the King's Bench, set up for an evidence, and, at his own desire, was brought to the bar of the commons." Tindal.

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ed, to join several thousands.' I did open the letter from lord Preston, declaring his fidelity to king James and the queen; and, 'That he would raise men in the north of England, if the French would land there.'. (He named the earls of Peterborough, Salisbury, and others.) Salisbury declared, by father Emanuel, 'That he would advance 4000*l.*' King James's Declaration was dispersed by Dr. Gray, and sir Adam Blair. Salisbury's money should be advanced by Father Emanuel, (who was still in England) and he valued not a warrant to take him, he had such friends in the secretary's office, and in the king's house.—The late queen gave me a letter to the earls of Castlemaine and Feversham. King James had friends in the king's council, of whose service he was well assured. There was a commission to six lords to manage affairs in England, as if king James was in person in England. Bills of Exchange were sent by me. The marquis of Halifax was the first in the said commission. There were 23,000 listed, to join with the French. I must humbly crave the protection of the house, till I bring a gentleman to confirm what I have said. The archbishop of Canterbury (Sancroft) encouraged the matter as much as possible; but the earl of Portland would not meet the gentlemen that should discover. The archbishop was not able to give the gentlemen a protection. He wrote to lord Portland, and his secretary wrote to him, 'That it was not in his lord's sphere, nor could he have money.' I was by warrant committed to prison, and that prevented the gentleman coming in to discover. I will forfeit my life, if the house will give me leave to send for this gentleman into Flanders, who will confirm what I have said." [He withdrew.]

Mr. *Chadwick.* Fuller has named lord Portland, and my lord of Canterbury; I presume to inform you, what I know of this gentleman. He has made some believe that he knows something, but not so much as he pretends to. The king has been acquainted with all he has laid before you. I went often to him, to bring him to several points, but whenever he came to fixing time and place, he always shuffled, and pretended want of Papers. He fixed for lord Portland at Kensington, but he never kept his time. I thought fit to tell you this, and I am afraid you will find him a very shuffling fellow.

Sir *John Guise.* I have heard a scandalous report of this fellow. Mr. Crone was condemned upon this man's evidence.

Fuller came in again, and said.—"I saw an Address from the lords to the French king, for assurance to restore king James, from the late archbishop of Canterbury, the dukes of Norfolk, Newcastle, and Beaufort; the earls of Mulgrave, Clarendon, Aylesbury, Castlemaine, and Scarsdale; the bishops of Durham and Ely; the lords Grey, Widdrington, Forbes, and Teynham; William Penn, and Berkshire Howard: there were near forty more, but I could not take all their names, because colonel Parker called for the Address, to carry it to the queen. The queen said, 'There were several persons in both houses.' And Father Emanuel said, 'He had friends in the king's council, and the secretary's office;' and the queen told me, 'If any did trouble me, to apply to lord Godolphin; and that lord Feversham, and several others, would assist him,' as lord Preston and lord Aylesbury."

Sir *Charles Sedley.* This young man has accused so many, that was he an angel from Heaven, I should not believe him, he has accused so many considerable persons.

Colonel *Cornwall.* One of the king's messengers was concerned in taking Fuller into custody; pray let him be called in.

Mr. *Howe.* One thing will convince me of the credit or falsity of this person. He says, 'The archbishop of Canterbury would meet him, and lord Portland put it off'; and Mr. Chadwick said, 'He failed lord Portland.'

Mr. *Chadwick.* I went to Fuller, and he appointed Friday night positively to meet him; but no Fuller, nor any from him. I went again, and appointed another time at Kensington, and then the fire was there; but he failed twice before.

Fuller. "I appointed the night before the fire to meet my lord of Canterbury at Kensington; but he said, 'All was there in a hurry, and he would appoint another place.' I think there were no more appointments by lord Portland: I cannot say positively. I would have gone as a prisoner, in custody of twenty messengers, if they pleased, into Kent, to receive some papers from France. Lord Portland gave me 200*l.* and lord Shrewsbury 20 guineas. The queen gave me 100 pistoles, and at my return out of France 100 more, when I went away. I had 100*l.* more from lord Nottingham, as soon as lord Preston's Trial was over.* I have laid out in all 1500*l.* in the king's service, of which I have not received 500*l.* I lost my employment for two years. The last queen made me a page, and gave me 200 pistoles, and the money I owe will make up the 1500*l.* Lord Portland denied me money to bear my charges, and for that reason I could not go down. I wrote two letters to him from Kent, in four or five days. I told Mr. Chadwick, when he offered to go down with me into Kent, 'That the gentleman was come to town.' I think I did give Mr. Chadwick the letter from the gentleman, which said that in a day or two he would come to town. These gentlemen that I am to produce will bring papers (they desire not to be taken on their bare words) to show how the king is betrayed by some of his council: the best way is to bring them presently; they fear that some about the king will prevent their discovery. I will take care to write to them, and as the house think convenient, I will either send a messenger myself, or the king may, if he pleases: I believe I have a servant whom I

* Lord Preston was condemned, but afterwards pardoned.

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may trust with the message. I believe one of these gentlemen is in England, and I did discover one of their names to the privy-council; and as for the other, I have not discovered him, because I had not an opportunity. I desire I may be taken into the protection of the house, and that I may have a sum of money to enable me to make this discovery."

Sir *John Leather*. You would not have sent for this man without some hopes of fruit. Possibly it had been as fit for a secretary of state to have examined this fellow. When this man convicted a man for his life (Mr. Crone) he was not of light reputation. To betray the king's councils, whosoever they are, they deserve to answer it. If they be too great to be meddled with, I have done little in getting on horseback to bring in king William. I believe one of these men he mentions, is not in Flanders. Perhaps he is a youth of levity or debauchery, but he offered a fair thing, to bring him. If he be your hostage, there is no danger.

Sir *Charles Sedley*. Whatever credit this man is of elsewhere, he has had great trust by queen Mary. This boy having received so much money, without doubt he was trusted. As for taking him into protection, and addressing the king for a sum of money for him, and some reward—If he produces original papers, with hands and seal, I know not how he can deceive us.

Sir *John Thompson*. Now this is come before you, you must do something in it; the honour of the house is concerned in it. Time will try best whether the thing be true or false. I will say nothing to his integrity, but I find he has played with both hands, here and in France; but in which he is most sincere, I know not. He tells you, 'That Papers, &c. are at his lodgings.' I would secure his Papers, and send to his lodgings.

Debate on the Lords' Amendments to the Bill for the Regulation of Trials, in Cases of Treason.] Dec. 11. Mr. *Clarke*. I would not agree to the lords Amendment in Impeachments, and limitation of time. I hope the house will be tender to reserve the right of Impeachments in their hands, and I hope this Bill will not amount to repealing the Statute of 25 Edw. 3, of Treasons reserved to the judgment of parliament. Suppose a person should conspire to burn the Fleet, if it be proved by one witness, he is to die for it. Suppose a person should prevail with the king to raise Money without parliament, and no way to come at such a person but by parliament: by this Act you cannot come at him. Further, I fear there will be no Treason but by statute; and if there be no indictments, there can be no Impeachments. I fear this Bill will repeal the 25 Edw. 3rd, and I am against it.

Mr. *Finch*. I did not expect this objection against the Bill, but I think it is so remote, as not to come into a man's thoughts. Whereas, before the lords Amendment, the Bill was for the prisoner's evidence to be upon oath, and to have counsel, and nothing of that to extend to Impeachments: and it does provide, that Impeachments shall not be circumscribed in point of time, and that he shall have a copy of the indictment, witnesses upon oath, counsel, &c. But how can this be imagined to repeal any part of the 25th Edw. 3? Will you say, though this be just in indictments, it is not just in impeachments? The proviso of the statute of Edw. 3rd has reserved all doubtful Treasons to judgment in parliament. There is nothing touched of that proviso in the Bill. But says Clarke, 'In other things there must be two witnesses, but in constructive treason one witness is enough. This is the bottom of the objection, and it is an imagination that Clarke has found in his judgment. Nothing, in this bill, does touch that; but, as he says, 'It is hard to condemn a man for an unknown treason, by one witness, and a known treason by two witnesses.' The Amendment does not take away constructive Treason, and there has been but one instance, since Edw. 3, of constructive treason judged; and that was in the case of John Imperial.

Mr. *Hampden*. If the lords be let in upon you, they may undo you. I would treat the lords with all respect imaginable, in my little sphere. The lords are content that there shall be no limitation of Impeachments in parliament. I wish to God this law had been sooner, and perhaps you would have had some good commoners alive. It is objected, that this may go farther than you intended: says Clarke, 'I doubt, this will protect men against declaratory Treason.' Pray, with all our haste, give me leave to propose this caution; that, after the words, 'No limitation of Impeachments in time,' be pleased to add, 'This law not to extend to repeal any part of the Statute 25 Edw. 3.'

Mr. *Finch*. As to what has been said, 'That this Amendment takes away any privileges of the house, ushered in with a graceful concession from the lords,' I know that a commoner may be impeached, as well as a lord; but if a man be impeached for that which is a known treason, it is not to be imagined that the commons would impeach a person without two witnesses to that treason. You may as well propose a proviso for that Statute *de bonis conditionalibus*, as for that statute 25 Edw. 3, 'In doubtful Treasons, the Judges shall tarry, and not proceed till the parliament have declared the treason;' but I ask, if a man be indicted for that, may that be a question, and the jury find a man guilty without two witnesses? No man can be proceeded against without two witnesses, by the Statute of Edw. 3. No man shall be indicted, condemned, and attainted without two witnesses—Such a case cannot be supposed—But for the reasonableness of the proceedings of this house, God forbid but that a man should have the same method of proceeding as in other places! A man must have two witnesses against him (by this Bill) and his own witnesses sworn: which is reasonable in Impeachments, as in Indictments; as in

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other cases, so in this of Impeachments, a man shall have his counsel. No man can say, nor suppose, there will ever be such a case, that a man shall not have this time limited in the Bill; but learned men have objected, (as Mr. St. John, and others,) and very much doubted, whether the Statute of Henry 4 had not taken away Impeachments in parliament; but this Bill does declare Impeachments in parliament, and that no time takes it away. Here is no law taken away, but the right of Impeachments is established.

Sir *Tho. Littleton.* Finch says, 'Impeachments in parliament have been a question, but this law fixes them, and no time barrs them.' I know not if some have been of opinion, that Impeachments in parliament are taken away—I do not blame Finch, who thinks the lords thought to fix what was doubtful before. I dare be bold to say, if the Clause had been proposed here, before it would have passed this house, you would have taken care that nothing should affect Impeachments in parliament, and the lords say it shall—A commoner may be impeached as well as a lord; and, I hope, that care is taken. And, after all, the terror of an Impeachment is not so great, as it is thought. We see persons have not valued them. Here you shall have cunning lawyers defending an Impeachment, and I hope I shall not degrade your members to argue against lawyers. But when an Impeachment is by gentlemen of his own quality, I think a cause is as well tried without counsel, and I would disagree with the lords.

The *Speaker.* I take leave, without arguing, to open the Clause, (and reads the Clause of Impeachments) viz. 'Not confined to point of time in Impeachment, and Witnesses for the prisoner to be sworn.' There are two things in which the words admit of doubtful construction: one against the honour of the lords, and the other of the privilege of this house. As the Amendment stands, can a person be allowed to challenge, &c? Then that person may challenge a lord. In ordinary prosecution, the person must have two juries, upon oath, to find the bill, and your Impeachment is not upon oath. The commons are general inquisitors, and not upon oath; it may admit disputes, and have variety of opinions, and the laws are to be taken in the most favourable construction for the life of the prisoner.

Mr. Solicitor *Somers.* You have done justice to the house in stating the question. The more dark the lords Amendments are, the more they are to be suspected. You are told, by a learned gentleman, 'That the lords grant every one of these things to the person impeached;' and why then a new provision? But that which weighs most with me is, that, in the last parliament, every word was left out that related to Impeachments, it was of such moment; and the lords have now made a direct contrary Clause. Whatever is from the lords, nothing shall be offered to mend your case. The house of commons go from their dignity, and lessen themselves. The power of Impeachment ought to be, like Goliath's sword, kept in the temple, and not used but on great occasions. The security of your constitution is lost, when you lose this power. The statute of 25 Edw. 3, did foresee that men would be above the law; and, I believe, did not take away those that were treasons at common law. *Seductio Regis* can be punished no otherwise than in parliament. In the lords Amendments it is, 'He shall have like means of defence in Impeachment, as the subject in inferior courts is allowed.' This is not Treason by 25 Edw. 3. But do not these words give him the same defence? If that be so, then that branch of the statute of Edw. 3 is directly taken away. It is said, 'The commons may be impeached;' but we know, the lords have refused an Impeachment, in the case of Fitzharris * at Oxford. I am against the Amendment.

Mr. Attorney *Treby.* I do not wonder at the zeal of the house, when so great a matter is before you as stating Trials for Treason; and the honour of the house is a great thing in Impeachments. When the parliament had a great opinion of Charles 2, when the safety of the king's person was considered, the statute of 25 Edw. 3 was thought the safest and best that ever was made: before, there was a latitude of construction; and as treason was in the highest degree of penalty, (lands were forfeited to the crown, and not to the lord) it was wisely done to constrain that construction. That part said, 'Because it could not enter into the mind of man to excogitate the offence of Treason, &c.' Men may invent Treasons of a higher degree than any mentioned, &c.—and referred to judgment in parliament, and called another offence. Your value is giving Money, and bringing men to account for great crimes. If you only give money, you may lie under the hardships of great offenders—You have had instances lately of corresponding with the king's enemies. But what I mightily wonder at is, that Impeachments should be taken away by the Statute of Henry 4; but that statute is not meant of Impeachments, but of Appeals of one lord against another in their fury: it never intended taking away Impeachments; but in Mr. St John's Arguments against lord Strafford, I find no such thing. Treasons at common law were known within the proportion and reason of common law. I fear, this Clause of the lords weakens your constitution. Impeachments are seldom used, as not fit on common occasions; but I would keep it as it is established by 25 Edw. 3. If but a doubt in it, plainly say that you will keep it, and that you will take as much care in this as your ancestors have done.

Sir *Edw. Seymour.* I have observed, that those gentlemen who are for disagreeing with the lords in this Amendment, are against the Bill. The arguments have gone as if the Clause relates only to the person impeached. Some reasons have been given against counsel for the

* See vol. iv. p. 1332.

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prisoner. I have had the honour, or misfortune, to have been impeached *; but they that brought it in were ashamed of it, and that consideration makes me desire to have it easy to such as shall come under it.—Before the Statute of 25th Edw. 3, Treason was *individuum vagum*; but that declares it. No man doubts but that the king and parliament can declare Treason—'Treason or any other Felony'—That was the thing complained of in that statute—How can Impeachments have relation to that statute? When all is done, I am as little forward for Impeachments as any man, nor would I give the lords new jurisdiction; but if there be any doubt, I would have it explained, that it may be understood; but do not make it harder in Impeachments than in any other trial, when the whole weight of the kingdom is upon the prisoner.

Sir *Christ. Musgrave.* This has been a long debate, and deserves the consideration of the house, it is of so great importance. If I thought that it would lessen the power of Impeachments, I should be against it. Your power is not lessened by the prisoner's having counsel in impeachment, as when tried in an inferior court But the construction of the words (as the Speaker said) 'extends not to challenge of their Judges in Impeachments, any more than in the common way of trials.' What is it the lords have offered? In cases of Impeachment, that witnesses may be upon oath, to make them more cautious. Those who lay the greatest stress upon this Clause were most against the bill at first; and I hear not of any Clause from those gentlemen to mend it. I can never suppose that the commons impeach upon one witness, nor the lords condemn.

To this Amendment of the lords the commons answered, "That the course of Impeachment is a constitution so necessary for preserving the government, that the commons cannot consent to admit any thing relating thereto in general words; because they may be liable to divers constructions, whereby proceedings in such cases may be rendered ineffectual."

The following Clause, marked A, was added by the lords: "And be it farther enacted, by the authority aforesaid, That upon the Trial of any peer or peeress, for any such Treason, or misprision of Treason, as aforesaid, that all the peers that have a right to sit, and vote, in parliament, shall be duly summoned 20 days at least before every such trial, to appear at every such trial; and that every peer so summoned, and appearing on such trial, shall vote in the trial of such peer or peeress so to be tried; he and they first taking the oaths mentioned in an act of parliament made in the first year of king William and queen Mary, entitled, 'An Act for abrogating the Oaths of Supremacy and Allegiance, and appointing other Oaths;' and also subscribing, and audibly repeating, the Declaration mentioned in an act of parliament' made in the 30th of Charles 2, entitled, 'An Act for the more effectual preserving the king's Person and Government, by disabling persons from sitting in either house of parliament.'"

Sir *Tho. Littleton.* This Clause is not well timed, now the crown is in more danger than the peerage. Were I a peer, I would so clog the trial of peerage, that all the peers must be summoned. My reason against this is, that all the peers of England are of kindred, which is an exception for a commoner. If all the peers should come, they may have the majority of kindred, and the commons have no benefit by it. I am against it.

Mr. *Bertie.* This Clause is only for trial of peers out of parliament; in parliament they are safe. This will make peers more ready to stand up for their country.

Mr. Solicitor *Somers.* I observe it an objection, 'That speaking against the last Clause was speaking against the Bill.' It is not the intention of any man to establish an aristocracy; and this Clause is, in a great manner, to give impunity to peers, by this bill. If all the peers are to be his judges, a great many may be his friends and relations. Here is a lord the most abandoned creature in the world, it would be strange he had neither friends nor relations to stand by him. I am against it; for, by this method, you will never have a good bill, but it will be thus clogged. There is no one advantage that the commons can have in this bill, but the lords have it without clogging it with this Clause. Your ancestors have placed great power in the lords, on account of their great possessions; a third part of the nation was amongst the clergy and the lords, and the other two in the king and the commons; but since the suppression of religious houses, and abolishing tenures, the commons have been greatened. But the lords have a 'controul upon you in law-making, and this is great power. Suppose a great faction in the lords house to hinder any thing from moving to you from the king, what controul have you upon them? What you do now in the lords privileges, you take so much from the crown and yourselves. Whatever you do of this kind can never be remedied; for the house of peers will not part with any thing they have got; the crown may, for it must use you. If the lords are weary of this privilege of trial, let them take the common justice of the nation, and abide by their privileges as they stand. When this Clause was sent down, and rejected, the lords ordered a committee to enquire into precedents, and have judged it their privilege; and as they are content with it thus, pray do you so too.

Mr. *Finch.* I hear an objection made, 'That when all the peers are summoned, those of kin will be sure to appear, and there is no compelling them.' And 'that balance of the greatness of the peers is changed. The peers were so great men formerly.' As the law stands now, when the king erects a court of trial for a

* See vol. iv. p. 1222.

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peer, the lord steward summons them; and if they do not appear, they are finable for not appearing, it is such a contempt. Now turn the tables; what alteration are you making in the law? If they be impeached, they are tried by all the peers; if indicted, all the peers are to try him; and it is but the same in parliament as out of parliament. The great cure of all this is the rod of Impeachment, where you have all the peers; but it is not to be supposed that one of the states will be in conspiracy to overthrow the rest. Where is the mighty mischief of this trial of peers, out of parliament, as well as in parliament? It is said, 'This has been attempted before, and rejected;' but then justly, when it was tacked to matters not relative to it; but here it comes naturally. But it is said, 'This is for the benefit of the peers, and not of the commons.' But if it be a reasonable thing, I hope you will agree. Though no man is accountable for what is said in parliament, yet there are unlucky memories out of parliament. There is no hurt in this Clause, unless a man will say, that, the parliament sitting, the government is less weak than when it sits not.

Mr. Attorney *Treby*. The consequence of this Clause is, that when a lord commits a capital matter, 'tis said, 'It is but like Trial in parliament;' but 'tis of another force in parliament, than out of parliament. If a man be so great as to keep off a parliament, and to make peers, the man to be tried will be nearer impunity. I would not place them in that degree of impunity that our ancestors never knew, nor ever would give them.

The question for agreeing with the lords in their last Amendment, in adding the Clause marked A, passed in the negative; and a Committee was appointed to draw up Reasons to be offered at a conference.

Debate on the Observations delivered in by the Commissioners of Accounts.] Dec. 12. Sir *John Thompson*. I could wish we had a self-denying Ordinance, 'That no persons should sit here that have Places, or Offices of profit.' I am justified by good authority; for, before Henry 8's time, no person that belonged to the court was permitted to sit within these walls 'Tis wonderful to consider, that, when the commons were poorer than now, they should remove great men, and favourites, from the crown: the reason then was, there was no dependency upon the court; they brought more of the country, and less of the court, with them in after times. I speak my mind truly, and have no reserves; but I believe we shall not carry this, because there were never more dependencies on the court than now.

Sir *Christ. Musgrave*. I moved the question, and I'll tell you the meaning of it; 'That no member shall be a receiver of money granted by the excise, or taxes.' I think it more proper that they should not be receivers, than give away the privilege of the house.

Mr. *Palmes*. We ought all to stand here on an equal foot. If we make discrimination of who shall have privilege, and who not, I am against that. I would, at present, wave both these questions, and not lose the fruit of this debate: But if you will lay your hands upon offices of great profit in this house, and if you will make distribution of it to the public use, I am for it.

Admiral *Russel*. I move, 'That the moiety of all Profits of Offices above 500*l*. per ann. should go to the use of the War.'

Sir *Robert Rich*. Russel spoke to me of this motion long ago, before I had a place; but now I rejoice that I have an opportunity to shew my respect to the government, and show myself willing to work hard to ease the people.

Sir *John Lowther*. I am as ready, as any body, for this motion: I will only say, if I found my service acceptable, I would serve for nothing. I am for the question entirely; but there must be exceptions; as of the Judges; they lose by their practice in being made Judges; and the Commissioners of the Great Seal.

Sir *Christ. Musgrave*. What is said by Lowther is worthy observation: they do lose by their employments, and I would have them exempted.

Mr. *Howe*. I am sorry that we that have no offices, have no power to vindicate ourselves; but some things are to be considered in the question. There is great difference in employments. A man has greater loss in the country by attending them, and some are obliged to keep tables.

Mr. *Dutton Colt*. If offices of 500*l*. per ann. shall not be rated, I shall have no share in it; but if keeping no tables, I am willing to pay my share.

Col. *Granville*. I move, 'That all Salaries exceeding 500*l*. per ann. shall pay one half to the government, during the French war.'

Sir *Stephen Fox*. The necessities of the government are so great, that they make the valiantest man tremble at the consequences of delay.

Sir *Robert Rich*. The plainest way is to begin at home. The gentlemen of the Admiralty have 1000*l*. per ann. paid them. My plain intention is, that they should have 500*l*. per ann. but to cut off two parts of three, is the way to work them to nothing.

Resolved, nem. con. "That the Salaries, Fees, and Perquisites of all officers under the crown (excepting the Speaker of the house of commons, the Judges, the Lords Commissioners of the Great Seal, Foreign Ministers and Commission-Officers, serving in the Fleet and Army) exceeding 500*l*. per ann. shall be applied to the use of the War."

Report of a Conference respecting the Bill of Trials.] Dec. 17 *. Mr. Montagu reported

* "The detection of extravagance, and of abuses in the army and public offices, were not only animadverted upon in the course of the debates upon the Supplies; but induced the commons, with great propriety, to introduce several Bills for retrenching the Salaries

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Reasons to be offered at a Conference, for disagreeing with the lords in their Amendments to the Clause marked A, (p. 681), in the Bill of Trials; viz. "This Clause, added by the lords, is of a different nature from the intent and purport of the Bill; which is designed to extend no farther than to allow the subject a more equal way of making their defence, in Trials of treason and misprision of treason, but not to alter the court, or the method of constituting it."

To which the lords, at a Conference, returned the following Answer: "The lords observe, That, in the Reasons offered by the commons, for disagreeing with them in the Clause marked A, in the Bill entitled, 'An Act for the better regulating of Trials, in cases of Treason,' they do not object against it as unreasonable in itself, but as it is of a different nature from the intent and purport of the Bill. —The lords look upon it quite otherwise, and cannot conceive how any thing should be thought foreign to the Bill, that doth so naturally agree with the scope of it, which is the protection of all innocent men, who shall at any time hereafter be accused of any of the crimes therein mentioned.—The ground of this Bill is, that every man, who shall be prosecuted for Treason, or misprision of treason, shall have a fair and equal trial for his life; so that, in what respect, or by what circumstances soever, as the course of proceedings now is, an innocent man's life, estate, or liberty, may be unduly exposed by his being prosecuted for the crimes above expressed, it is very fit there should be a remedy; and therefore, if the present method of trying peers giveth just cause of objection to it, in relation to the true and natural meaning of this bill, it is either to be showed, that the objection is of no force, and that, in the present method, there is no such defect or inconvenience, or it must be acknowledged there ought to be a remedy; and then it cannot be denied, but that such a remedy cometh properly in this Bill, since it agreeth both with the title and intent of it.—The lords are of opinion, That the interest of the people of England is at least equally concerned with that which they may be to have in passing this clause.—In their judicial capacity it can never be thought convenient for those, to whom they are to administer justice, that the lords, when they are to receive it, are to lie under greater hardships and disadvantages than others, in cases where their lives are to be defended.—And, as they have a part in the legislature, it seems to be yet less reasonable, that they should, in the method of their Trials, be so distinguished, as to be more exposed than the meanest subject in the kingdom —The lords conceive that nothing is more conducing to preserve the whole constitution, than a mutual care of one another in all the parts of it. It is that most especially, which must cherish and promote the good correspondence betwixt both houses, which is so indispensibly necessary for the maintaining the safety and greatness of the nation; of which they are so fully persuaded, that they will never fail to support and improve, to the utmost of their power, the true interest of the house of commons, and therefore cannot doubt but that the house of commons will be as ready to comply with the lords in this, or any other instance, where they shall be well founded, as they take themselves to be in the matter now in question."

The King's Speech on passing the Money Bills.] Dec. 24. The royal assent was given to two Money-bills; upon which occasion his majesty expressed himself as follows:

"My lords and gentlemen; I must not lose this occasion of returning you my hearty thanks for the great proofs you continue to give me, of your zeal and resolution to support and assist me in the vigorous prosecution of the War against France next year: and I assure you it shall be my greatest care that the assistance you give me, may be so applied, as to render them more effectual for the Aids you designed them: but I must take notice to you at the same time, with some trouble, that the new year is already come; while our preparations for it are not only more backward, but those of our enemies, as we have reason to think, in greater forwardness, than they were the last year. I find myself therefore necessitated from this consideration, most earnestly to recommend to you, gentlemen of the house of commons, the hastening such farther Supplies as you design for the prosecution of the war;—My lords and gentlemen; The season being so far advanced, this present sessions cannot admit of a much longer continuance, and therefore I must recommend to you the dispatch of all such other Bills, that you shall judge necessary for the public good."

Debate on the Conference with the Lords on their Amendments to the Bill of Trials.] Dec. 31. Sir *Charles Sedley.** Mr. Speaker, the Trial by their peers could never be meant peers of the king's appointment; I take the Clause in question to be very agreeable to the title of your Bill; for it is entitled, 'A Bill for the more equal Trial of persons accused of Treason, or Misprision of Treason.' Upon which the lords have grafted a provision for themselves in that

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of office, and for preventing future abuses of the Revenue. These bills, however, were either rejected by the lords, or clogged with such amendments as tended to defeat their very purpose. A bill for ascertaining the Commissions and Salaries of Judges, and rendering them independent, began in the commons, and passed both houses; but the king refused his assent to it. The declining influence of the crown, unequal to the vigorous prosecution of measures of the highest national concern, as well as the dread of conspiracies which broke out at this time, were apologies for withholding the royal assent from a Bill essential to the pure dispensation of justice." Somerville.

* Sedley's Works, vol. ii.

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case, and no other, and the provision is, that they shall be tried out of parliament, as they are now sitting in the parliament: This, some gentlemen say, is a weakning to the government, which they seem to think cannot subsist, unless the government may at any time reduce what lords they please under the power and judgment of the majority of twenty peers, nominated by the lord high-steward. Which certainly is a very great hardship upon the peerage of England, and puts them in a worse condition, as to their lives and fortunes, than the meanest commoner of England, who may except against three juries; whereas a lord cannot except against one single person, of those few that are appointed to try, though never so professed and so open an enemy to him. Now instead of this privilege of ours, they desire they may be tried by the whole house, or such of them as will come to the Trial. Others again say, If this Clause pass by reason of the mutual relations and affinity between the peers, they will be ready and able to save one another. To that may be answered, That of late the lords do not much inter-marry, chusing rather to better their fortunes by marriage into the city; the best composition, and most usual of late, being nobility on one side, with money on the other; nor do those sorts of obligations last longer than the wedding-clothes. Nor are the lords so considerable as formerly, when three or four of them in conjunction could shake the crown: their estates, and consequently interests, are sufficiently decayed since the statute of Henry 7th gave leave to alienate their lands: they were natural, and many of them now but artificial lords, like the catholic bishops, in *partibus infidelium*. This Clause is likewise very pursuant to the prince's Declaration, where nothing is more complained of, and abhorred, than the injustice and corruption of the Trials in king James's reign; and I hope we shall never be tenacious of those wicked and indirect ways of destroying, by which we have lost many of our best friends; the lords have estates to make them cautious, but not dangerous: partiality and compliance is ever toward the power in being: The reigns of princes are recommended to posterity by the good laws they pass; and as we have given largely for the Supply of the government, we may hope to obtain something for the benefit of those whose money we have been so liberal of. We have as yet past nothing but Money bills, or bills of a private nature: It is high time we should do something like a parliament of England; let us not then here, among ourselves, stifle this our public debt, and consequently deprive his majesty of the glory of passing an Act, which most men have in all ages desired, but could never hope to obtain, but from so gracious a prince.

Mr. *Howe*. If the lords are not subjects, I would have no regard to them. If gentlemen were better reconciled to the Bill, they would be the more for this Clause. I have been grumbling for this Clause these dozen years. A great many honest gentlemen have lost their lives for want of this bill. If it be law already, that a prisoner should have a copy of the pannel and indictment, why is it refused them now? If we do it not in the time we have a king that will secure your liberties, we never shall. I hope we shall take this advantage for posterity by this Bill. We lose nothing by this advantage that we give the lords. I cannot but call to mind that all great officers, in Henry 4th's time, were chosen *per communitatem regni*, that the lords might be out of danger of their lives, which I call so for doing their duty; and that was the design of that Petition. What lord dares stand for his country, when they have halters about their necks, and seven lords may hang them? When ruffians shall be sent abroad to kill a lord, by the power of the court, if the lord kill the ruffian, he will die for it—If the lords stand for your liberties, and our lives are in danger, I hope you will agree with the lords.

Mr. *Dolben*. Notwithstanding all the compliments in the Paper, that dignify the lords Reasons, you put a greater compliment upon the lords in calling them so.—We may suppose as well as the lords. They put it upon you, 'That the objection is of no force:' which is proving a negative. They seem to make their rhetoric come in aid of their logic. It is a good rule to judge future intentions by past performances. What have the lords done at any time for promoting the interest of this house? I will give an instance: this house passed a Bill for regulating Elections: the lords thought it for the interest of this house, and would not pass it; and that was their good intention to this house then. If this Amendment of the lords be agreed to, from that moment we may date ourselves precarious. This will give the lords such power to endanger the government, that I cannot agree to it. They have a power of over-ruling the courts of Westminster; and you, by this Clause, will complete the work, to overthrow the king's prerogative, and establish their own.

Mr. *Finch*. I am not for insisting, if that be the question, but rather for agreeing with the lords, and think that the lords Reasons have both the form and essence of reasons. The lords tell you, 'It is a proper Clause they offer you, for the Bill says it.' If the case be, where innocent mens lives may be in danger, the argument is no more than, if there be inconveniences in the Trials of peers, as there are, they therefore ought to be remedied; and I submit, whether an innocent man's life may not be in danger? The copy of the pannel is only applicable to the commons—That asked you is only for the lords to have the same Trial, out of the parliament, as in parliament. It seems, by Dolben's argument, that the government is not safe in parliament, but out of parliament very safe. In case of commoners the sheriff nominates the jury, and by any person the pannel may be quashed; but the lord steward summons the lords, and no exception can be taken against any lord. It is in the power of any great man to destroy a

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lord, for he is, by his commission, to summon so many as he thinks fit, which may be but thirteen—and may not any innocent man's life be in danger? The greater he is, the more power he has, and may have seven lords of his party: and it subjects some lords to the will and pleasure of seven. It has been said, 'If all the peers be summoned, none will come, but only such as will acquit him, as his allies, &c.' But the peers are finable, if they do not come, as any common jury is. The danger is not at present, when we have a wise and good prince upon the throne, but there may be a Henry 6, governed by his lords. I have not heard any objection, that this weakens the government, but 'that all the peers summoned will not come:' but they forget to tell you that they may be amerced. We do not find that relations were so prevalent in lord Stafford's Trial. But one Howard of six or seven that were his Judges, found him Not Guilty;* and will a peer expose himself to contempt for this? There is no reason not to agree with the lords, unless this: that, if we do not agree, the Bill may be lost. Let any man show me any proposition in the bill that renders the government unsafe. There is nothing in it, but to render an innocent man safe, and it does not weaken the government. It makes it more hard to condemn an innocent man, and acquit a guilty.

Mr. Attorney *Treby*. I am against the Clause, though I am fond of the Bill. I hear it challenged, that this Clause does not weaken the government. I think the Clause does weaken the government. It is the removing of an ancient land-mark, and an article of Magna Charta. It is setting up a new court for Trial of peers. We are to redress grievances here, and, as if the lords have not privilege enough, to give them more! We shall not have the thanks of those we represent. The grievance is rather at the bad execution of the law, than the law itself. By 33 Hen. 8, all are to be tried by freeholders, and yet, in spite of that law, the Judges have declared otherwise. As soon as the prisoner has his papers, if the court take them away, (as in College's Case) he will have little benefit of the copy of his Jury, or Indictment. It is a great mistake alleged, 'That it is in the power of a lord steward to summon as many as he pleases.' By law, no man but must be found by at least twenty, who must proceed on his Trial. It was the earls of Essex's and Southampton's Case. But it is said, 'A commoner may challenge, but a peer not;' but this Bill helps them not, but lets in all that will come. They magnify themselves to give their verdict *seriatim*. It was once thought a great privilege by the lords, but now a burden—It is objected, 'That it is in the power of the king to make a lord steward, and he may be an ill man;' but, on the other side, does not the king make sheriffs? And I know no reason but that the danger is in the one, as in the other. But to answer the precedent of Henry 4. One of the most learned books of the Crown Law, which is Stanford's, says, 'This is that *judicium parium* provided in Magna Charta.' This does show that we are repealing one of the articles of Magna Charta of the laws of the kingdom. In parliament, the lords are the same, and no house of peers without the commons: and it is not likely that there will be so much danger, when they are in being, of partiality. It is only those lords that will voluntarily appear; and none but friends will appear, and may be ready to acquit their fellow-malefactor. The ground of the Clause 'That twelve lords may conspire an unjust verdict.'—I suppose the lords may conspire. It seems to me to provide an impunity to the lords, and this is as near to it as can be. The government may be ruined for want of justice in the intervals of parliament—We must suppose that a lord steward will impannel so many as to take a man away—What is a man the better, if he be hanged for one sort of treason as well as another? It is dangerous to the government if they misbehave themselves. It is altering the ancient law of the land, under which the lords and we have prospered; and I would disagree.

Col. *Granville*. I think the lords tell you right; 'That this Clause tends to the scope of the Bill, and that it preserves the government to keep each part of it as free and independent as you can.' The lords must upon all occasions, join with the crown, when there is a design to debase the privilege of the people. A lord knows not how to speak his mind freely in parliament, when twelve of the king's servants shall hang him, when he is out of these doors. Consider that the Judges that gave those corrupt judgments were *durante bene placito*, and did what the king commanded them. I hope, that, by this Bill, the lords may act free when they come to give judgment. All the arguments incline you to this Clause; and, I think, there is only an obstinacy against it. (Excuse the expression.) I find gentlemen that were against the whole Bill are against this Clause, and I would agree with the lords.

Sir *Christ. Musgrave*. I look upon the reasons, on both sides, to be the lighter, and the best reserved for a free Conference. If gentlemen are inclined to agree with the lords, they may do it upon a free conference with the lords. I see, by one influence from court, one precedent of hardship, I can give more instances of hardship in parliament than out of parliament. In lord Delamere's Trial there were no lords of that Jury, but what were actually in the king's service, and no reason to object hardship. There is but one instance, 15 Edw. 3. The lords obtained an Act, 'That no lord should be tried out of parliament;' but it was so dangerous that it passed in Easter, and was repealed in October. This law may be proper, but not in this conjuncture. We are

* "Four of the Howards, his kinsmen, condemned him. Lord Arundel, afterwards duke of Norfolk, though in enmity with him, did acquit him." Burnet.

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not now to give a greater impunity that formerly. The lords command your words by *Scandalum Magnatum*, and your estates by judicial authority, and I hope you will not make them bigger than the crown, by this way of trial.

Sir *Thomas Littleton.* I was against this Clause before, and so I am still. I observe, that there was a time when the lords might have had this Bill, and at a time when the government laid their hand upon them, and not so much justice then to be expected as now to be depended upon. A thing may be right at one time, and not at another. There is no pretence, or suspicion, under this government, but why should not this Trial be for felony, as well as treason, as if they would shelter themselves against the government in so dangerous a time as we are in?

Serjeant *Montagu.* Littleton says, 'Why not this for felony, as well as treason?' Appeals lie in felony, but not in treason, and therefore the Clause from the lords is only relating to treason.

The Question being put, "That this house doth insist upon disagreeing with the lords in the Clause marked A, it passed in the affirmative, 186 to 120; and a free Conference was desired.

Debate on Mr. Fuller's further Information.] Jan. 4. 1691-2. William Fuller (see p. 675,) attended at the door, and being called in to the bar, spoke as follows:

"There are two persons, who will not only discover what has been done formerly to betray the government, but what is doing at present. I desired six or seven members advice and direction to bring them over in safety; but not having provision, I desired of those gentlemen mentioned, that I might have passes for them; and I am assured, those two persons are ready, when care is taken to bring them over speedily and safely. The matter I am sure of, and I doubt not, but all gentlemen here are as willing as I desire it. I received assurance from them by word of mouth. The messenger that I sent, is not to come over again, I had a blank passport for one gentleman, and that gentleman got off without the passport, and I have it by me. Those now in the Plot against the king are very considerable; and few of them but what are nettled, and they watch these persons, and a single passport is not security for their lives. The protection I would have for these gentlemen, should not be sent in the Packet-Boat: and if they deserve not their pardon, they will not desire it. The passport I have had, is for a person to go over to England. (He reads the passport). I did not send to lord Sidney * for a pass, because I was assured the persons would not come over till this honourable house would protect them. I have exposed my life as much as any man for the king's service, and I have flattered the French king in his closet." [He withdrew.]

Sir *Francis Drake.* Here is a plain mistake. The last Friday we were informed he had such a pass *. I move, that he may have the protection of the house. One person (Crone) was hanged upon this man's evidence, and the ministers of state have let the rest alone. Fuller has done service, and I hope he may have the countenance of this house in an address to the king for his protection, and those to come over.

Sir *Ch. Sedley.* I would send for this fellow again, to know what he would have to bring these men, whether a yacht, or by messengers.

Sir *John Dorrel.* Fuller says 'He had a Passport but for one person to go over to Flanders;' and it is said, 'He had a Protection as great as could be granted, and a Passport for these two persons.'

Sir *Francis Blake.* These two contradictions seem to me very odd. I would understand it.

Mr. *Arnold.* On Friday the house was led into a mistake by that passport. Other members affirmed, 'That he had a passport;' as you, Mr. Speaker; and I would have them explain themselves.

Sir *Christ. Musgrave.* I know not what protection this house can give. The protection these gentlemen stand in need of, is no less than a pardon. People will laugh at us without doors. We have no Protection but for ourselves. If he will not be satisfied with the king's protection, he will be satisfied with nothing.

Resolved, "That an humble Application be made to his majesty, That he will please to grant to Mr. Fuller a blank Pass for two persons, for their safe coming from beyond sea, or any other place, hither, to give their Evidence: and for their safe Protection, while they are here; and their safe return if desired. And he was called in again, and acquainted therewith †."

* Secretary of State, afterwards created earl of Romney.

* In a letter to the Speaker.

† About six weeks after this, (February 20) Fuller was ordered to attend the house, with the persons mentioned by him; but he pretending to be ill, and not able to come abroad, several members were ordered to repair to him, to secure his Papers, and to take his information upon oath. February 23, Fuller's examination was presented to the house, and read; and he mentioning Mr. James Hayes, and col. Thomas Delaval, as the two Witnesses of which he had informed the house, several members, attended by messengers, were ordered to go to the places directed by Fuller, and bring the said persons with them. They went, but found no such persons as had been described to them; whereupon Fuller was ordered to produce them himself, and also one Jones; which he not being able to do, the house unanimously declared, "That Mr. Fuller is a notorious Impostor a Cheat and a false Accuser; having scandalized their majesties, and their government, abused this house, and falsely accused severa persons

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Debate on a Motion for farther Supply.] Jan. 11. Sir *Robert Cotton.* I move for a Subscription of the Members, for a Fund to raise Money.

Sir *Charles Sedley.* They that have good estates may spare out of their pensions for their offices 500*l.* per ann. and those that have not, 500*l.* per ann is enough for them.

Sir *Edward Seymour.* I observed once, 'That this was a well-officered parliament.' If the methods of their bounty be brought into example, the next year will be upon land in general. I did hope that gentleman, that brought us into this expence, would help us out. Nothing can be of worse consequence than to multiply taxes. When the usurer has the advantage of the taxes, and not the public, gentlemen may live long enough to be mistaken. It is your interest to make this tax as equal as you can. I shall make you a proposition to raise this money by a Poll-bill. I see nothing proposed, but what touches some particulars. If you had proceeded in a parliamentary method, you should have considered your abilities before you had engaged the king in a war. There needs no argument better to consider the poverty of the nation, than so many private bills, and the lowering of interest. I propose a Poll-bill, because of the great inequality of the tax, when it falls wholly upon the landed man; a general quarterly bill of 12*d.* a quarter and all gentlemen 12*s.* a quarter. I do say, twenty to one in England paid not a farthing tax. This will come in quarterly, and there will be no need of borrowing money. Since we are come into a war, we must get out of it as well as we can. By this you avoid interest, and all other objections.

"The house being wearied" says, Mr. Grey, "with Propositions this took."

Report of the Free Conference respecting the Bill of Trials.] Jan. 13. Mr. Charles Montagu reported the two free Conferences with the lords, concerning the Clause added by the lords to the Bill for regulating Trials, in cases of Treason, as follows:

"That the Members of this house, who were commanded to manage the free Conference with the lords, on the 5th inst. did attend their lordships: That the Conference was begun by the managers of this house; who did acquaint the lords, That the commons had desired this free Conference, in order to a good correspondence with their lord-ships. That the inclination which the commons have to continue that good correspondence, which as yet has been happily maintained between the two houses, was sufficiently expressed by their proceedings in the whole progress of the Bill. That this Bill was begun by the commons for the equal advantage of such lords, or commoners, who had the misfortune to be accused of treason, or misprision of treason. That, when it was first returned from their lordships, it came down with very many Amendments; and the commons were so very willing to comply with the desires of their lordships, and to give the Bill a speedy passage, that they agreed to all those Amendments, except the two last; though some of them were of a very nice nature, and related to things of which the commons have ever been most tender. That, at the first Conference, the commons gave their lordships the Reasons that induced them to make those two Amendments; which did so far satisfy their lordships, that they did agree to the first Amendment proposed by this house, though they did insist on this other, for which they delivered their Reasons at a second Conference. That the Reasons had been solemnly and deliberately considered by the commons; but they had not found them sufficient to convince them; and they did still disagree with the lords in the Clause marked A; and did insist upon that disagreement.—And your Managers told them, It was very unfortunate, that no Bill for the relief of the subject, in these cases, had been tendered for many years last past; but either this Clause, or something of the like nature, had unhappily clogged it, and been the occasion of losing it; and that, as this was never thought reasonable to be admitted formerly, upon any account, so neither can the commons now consent to so great an alteration of our constitution as this would introduce. That such an alteration is far beyond the intent and design which the commons had in preparing this Bill. They were desirous that all men should have a fair and equal way of making their defence; they wished that the guiltless should, by all necessary provisions, be protected, and be allowed all just means of making their innocence manifest; but they did not design to subvert the essence and constitution of the courts; they did not intend to disable the crown, in one of its most necessary prerogatives, or to place a judicature in other hands than those to whom the laws of England, and the customs of the realm, have committed it. But the Clause, now in dispute, strikes at no less than this, and, in consequence, at the alteration of the government of England.—That the government of England is monarchical; and the monarch has the power of constituting courts, and officers, for administration of justice. Though they are to proceed according to the known rules and limitations of law, the judges are constituted by his commission; the sheriffs are of his nomination and appointment, who are to return the pannel of jurors; who are to pass on the lives of the commoners: And, in like manner, it is the prerogative of the crown to constitute a lord high steward, who, by his serjeant at arms, does summon a competent number of peers to

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of honour and quality;" and they farther Resolved, "That an Address be presented to his majesty to command his attorney-general to prosecute the said Impostor." See the Journal.

Fuller was accordingly prosecuted, and sentenced to stand in the pillory; which ignominy he underwent without the least shame or concern.

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be triers of their lordships. But this Clause would erect a judicature independent of the crown.—That the experience of past times has not contradicted that opinion of the honour and integrity of the lords, which the commons have received. That their design, in passing this Bill, was, to prevent those abuses in Trials for Treason, in inferior courts, for the future; by means of which, during the violence of late reigns, they had observed divers had lost their lives. That the things to which the Bill extends are of such a nature, that, except only in one instance, that is the time of the delivery of the copy of the pannel, (for it was agreed, even in lord Russell's Case, that the subject had a right to the copy of the pannel) the lords have an equal benefit with the commons. That the commons did not observe, that the Clause sent down by the lords does relate to the like grounds of complaint. No instance can be given of any peer who suffered during the late reigns, from whence a just cause of objection might arise to the present method of trying peers. The only two persons prosecuted came off, though pursued with great violence; the one, because the grand jury could not be prevailed on to find the Bill; the other was acquitted upon his trial by the justice of the peers.—By all the circumstances of that Trial of lord Delamere it is manifest, that if there were any unfairness in that method of trial, it then would have appeared. The violence of those times was such, that the commons were not protected by that innocence which has since been declared in parliament; yet then lord Delamere was acquitted, by the justice and honour of his peers; and it may seem strange to future ages, that the commons should be contented that the method of trials should be continued, which was not sufficient to protect their innocence, and their lordships after that which has proved a bulwark to their lives. That the commons also think the Clause to be of a different nature from the Bill; because the bill does not make any alteration in the constituting of the court, or in the nature of the trial; but the commons apprehend, that this is done by the Clause. The court is no longer constituted by the precept of the lord high steward, who receives his commission from the crown; but the whole order of peers have a right to make up the court; and all the friends, the relations, and the accomplices of the person are to be his triers.—That there is another great alteration in the constitution of the court, as the clause is penned. This method, prescribed by the Clause, is for the Trial of every peer; and every peer, who has a right to sit and vote in parliament, is to be summoned, and may appear and vote. Now, it is agreed, by the most learned authors, that the lords spiritual are peers: this is certain; whoever would go about to defend the contrary opinion, would find it difficult to answer the several Records of Parliament, and other authorities, where this point is asserted: The well known claim in parliament of archbishop Stafford, in the reign of Edw. 3: The famous Protestation 11 Richard 2, when the Bishops thought fit to absent themselves from parliament, because of matters of blood to be argued there; wherein their right of peerage is directly asserted: and this Protestation, being enrolled at the desire of the king, and with the consent of the lords and commons, seems to be of the nature of an act of parliament: and if the Law Books may come in for authority in such points, there are Cases where the pleas of bishops, as peers, have been judicially allowed.—So that this Clause does directly let in the lords spiritual to try, and be tried, as other peers, who are noble by descent. Not that the commons are dissatisfied with this, if this were the only matter. The lords spiritual, in all probability, by their learning and integrity, would greatly assist at the Trial of peers; and the commons are well enough disposed to let in those noble prelates to any privileges, in point of Trials, which shall be proposed by the house of peers. But this is urged to make good the position laid down before; that, by this Clause, the constitution of the court is quite altered; it having been taken for law, that the lords spiritual are not to be tried as other peers, or to be present, or vote, at the Trial of any other peers, at least out of parliament: for, as to their right in parliament, how far they are restrained by their Canons *agitare Judicium*, how far those Canons have been received in England, and what the usage of parliament has been, is not the present business.—That, had this Bill come first down from the lords, and the commons had added a Clause, That no commoner should be tried for Treason, but before all the 12 Judges, and by a Jury of 24 persons, and to have taken away all challenges for consanguinity (which, if it be considered, is somewhat of the nature of the lords Clause, though it does not go so far;) if the lords had thought fit to have used the same reason for disagreeing to such a Clause as the commons have done in the present case, 'That it was far different from the design of the Bill;' the same Reasons which the commons received from the lords, at the last Conference, if they had been delivered by the commons, would not have been convincing to their lordships.—That the commons observed, that the lords, in this Clause, or in their Reasons, have not stated any cause of objection to the present method of their Trials, and therefore the commons wonder that the lords (as they express themselves in their Reasons) should conceive 'that they were distinguished so as to be more exposed in their Trials than the meanest subject;' since the commons do not find but that they enjoy this great and high privilege (upon which so great a value has been justly put) as fully as ever any of their noble ancestors did.—That it is by this privilege that the body of the peers has been preserved so long. If any lord, at any time, should be disposed to expose himself in defence of the common liberties of the people, the commons are a security to him against being oppressed by false accusations: twelve of them must agree

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to find a Bill, before he can be indicted; and that bill cannot be found, but upon the oaths of two credible witnesses.—That the commons look upon the method of Trials, which the lords would alter, to have been as ancient as the constitution of the government. That it appears, in the Year Books, to have been practised in 1 Henry 4, and to have been well known at that time.—Indeed, it cannot be supposed to have been an innovation then; the lords, who had just before deposed Richard 2, were too great to suffer such an innovation, and Henry 4's title was not sufficiently established to attempt it.—The reason why no older instances of proceedings before a lord high steward are to be found, is this; that this very Henry 4, when duke of Lancaster, was the last high steward who ever had any fixed interest in the office; so that the office being so long since ceased, all the Records are lost, and the very nature and power of the office, except in this instance of trying of peers, and determining claims at coronations, is lost: but, since that time, the high steward being only *pro unicâ vice*, the proceedings are commonly transmitted into other courts, and so come to be found.

"The commons observed, 'That, if there be any objection to that method of trying of peers, it must be founded on a supposition of partiality, and unfairness, in constituting a high steward, or in the high steward himself, and the peers summoned by him; and the commons are unwilling to enter into such kind of supposals. That, as to the partial constituting of a high steward, if that may be supposed, it is an objection to the constitution, which entrusts the crown with the administration of justice. That supposal may as well extend to the constituting of the Judges, and the Sheriffs, and every other part of the administration: And if, upon such a supposal or distrust, the remedy must be, to take that part of the administration out of the crown, (as is done in this case) the same reason must carry the thing so far, that the nature of the government will be altered.—As to the partiality of the lord high steward, and the peers, the commons are unwilling to suppose that it is possible that 12 peers should be ever found, (for that number must agree, or the person accused is safe) who can so far forget their honour, and the noble order they are of, as, for revenge or interest, to sacrifice an innocent person. But if the lords will suppose, that such a number of peers may be capable of being engaged in so ill and so dishonourable a thing, then the commons think themselves excused, if they suppose, that other passions and motives may also prevail upon the peers; such as pity in friends, partiality in relations, and the consideration of their own safety in the case of accomplices: Most men, especially Englishmen, enter unwillingly into matters of blood.—That the most indifferent peers will be most likely to absent themselves, either from a consideration of dissatisfying the crown, on the one hand, or drawing on themselves the mischief of a breach with the family of the person accused, on the other; (for it is to be observed, that a restitution of the family follows generally in a short time) or at least the love of security, and care of not engaging too far: for these Trials, (which for the most part happen in unquiet and troublesome times) will keep indifferent men away:—But the care for a friend will not fail to bring friends to the trial; the concern to preserve their family from that stain will bring relations; and if there be any accomplices, they must be ready, for their own sakes, to acquit the accused. And probably their number must be considerable in these cases; for it is not to be imagined that a lord can enter into those base and detestable actions which may be performed by single persons; such as poisoning or assassinating the prince.—That the Treasons, which it can be imagined that lords may be engaged in, may be such as arise from factions in the state; in which many must be engaged; and, if some accident discover sufficient matter for a Charge against one of the party, the rest, who are concealed still, will have as good a right to try their confederate as any indifferent lord; and no doubt but it is their interest to acquit him: and how far, at some times, this alone may go towards turning the scale of justice, may deserve to be considered; especially in times (which may happen hereafter, because they have happened heretofore,) when there may be several titles set up to the crown, and great parties formed.—That this is a law which is to have a perpetual continuance; and that the same loyalty, wisdom, and zeal, which appears now in their lordships, should be derived down to all their posterity, is a thing rather to be wished than depended upon. That if, therefore, the Clause has a tendency towards letting in an impunity for Treason, the commons look upon themselves as justified in disagreeing to it.—For they think it obvious to every one, of what consequence it will be to the constitution, if such a body as the peers, who have already such high privileges of all sorts, should have impunity for Treason added; and what that must naturally end in.—That the commons agreed with the lords, that a good correspondence between the two houses is of necessity for the safety, honour, and greatness of the nation; and can never think, that it is to be interrupted by their refusing any thing which may endanger the constitution; assuring them, the commons will never fail in improving the true interest of the lords; but they persuade themselves, that the lords will be of opinion, that, to introduce any thing which tends to an impunity for Treason, is neither the true interest of the crown, the lords, or the commons.—That the Managers for the lords, who spoke at this Conference, were, the duke of Bolton, the marquis of Halifax, the earls of Pembroke, Mulgrave, Stamford, Nottingham, Rochester, and Monmouth.

"The substance of what was said by the Managers for the Lords, was, 'That the lords were sorry to be of any opinion different from the commons, especially in a Clause of so great

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importance, which did concern not only their well-being, but their very being: that they had not differed from us in any thing propounded for our security, and hoped we would have the same consideration for theirs; that nothing was so proper for a parliament as to provide defences for innocence, in ill times. Necessity, in good prudence, puts us upon it. And though there were good times, in respect of the present government, they may say, they are unquiet, and unsafe; and what but a good prince will ever pass such laws as these are? This is the most proper time to provide for the subject; for a good king would be not only willing to protect them while he lives, but to provide for their security after his death.—That this concerned not only themselves, and therefore they would speak the more freely: it is too narrow a consideration for a parliament to seek only our present ends: our ancestors had farther thoughts: and they did not doubt but we should have so too. This Clause is not for the lords sake alone; there can no good be done in times of trouble, and invasion of rights, but by agreement of both houses: there must be a concurrence of the greatest part of the lords, and of the greatest part of the commons, to maintain the government of England. There may come a prince, when we are dead and gone, that may endeavour to invade the liberties of the people; and then the commons would be glad to have the concurrence of the lords; and desired we would consider, in such a case, whether it would not be a great discouragement for the lords to act, unless they could be as secure, at least, as the commons: and if there may be such princes, is it fitting that any part of the government, which is so necessary in their concurrence, should be under such terms for their lives, that they dare not oppose them with vigour, nor act, because they lie under shackles?—That the lords would do what was just, though this Clause should not pass; but they would be loth that those lords, that are eminent for their public service, should be eminent for their sufferings for it. That, in the case of Impeachments, which are the groans of the people, and for the highest crimes, and carry with them a greater supposition of guilt than any other accusation, there all the lords must judge; but when there comes a private prosecution, which may proceed from the influence of particular men, then a lord lies under the hardship of being tried by a few peers, chosen to try him, whilst all the people may sigh and wish for him; but such a Clause would do him more good. That, suppose an ill minister should apprehend an Impeachment in parliament, what manner of way could that man hope better to come off by, than by being tried before a parliament sits, where his Judges may be chosen so partially, as he shall come off; and it shall be said, No man can legally undergo two trials for the same offence? That this way of Trial was not ancienter than Hen. 8.; that it was brought in then to take off those that he did not like; that, in his time, the duke of Buckingham was taken off in this manner by cardinal Wolsey; that Anna Boleyn was condemned by her own father; and afterwards, a party was chosen to condemn the duke of Somerset, and the duke of Northumberland: that the Case of the earl of Huntingdon, 1 Hen. 4, is no good case, nor truly reported; for the Parliament-Rolls, 2 Henry 4, mention his being beheaded by the rabble in Essex. That this does not alter the constitution any more than as, in some sense, every new law may be said to alter the constitution; and the commons say it is altered, because formerly it was by a set number, and now all must appear: and that does not seem to alter the constitution; for the High Steward now may summon them all: the Lord High Steward formerly summoned the court; he summons it still; the nature of the court is not altered by the *majus* or *minus*, any more than the King's-Bench ceases to be the same court, when there are three or four Judges in it.—Though this Clause did not (as was said) pursue the ends of the Bill, yet either house has a power of adding what they think may make it better; and, though this is not of a different nature, there have been instances of additions of different natures; but this is so far from it, that it agrees entirely with it, and is as suitable and necessary as any part of it. That the commons were not well satisfied, when the Commissions of the Judges ran *durante bene placito;* and could it be thought reasonable that the lords, who are the supreme judicature, should hold their lives *quamdiu se bene gesserint?* And though the king does now appoint the sheriffs, it was not always so; and, since the crown has made them, the commons have this for their security, that they may challenge 35 of the pannel, peremptorily, and all the rest for cause. But the Judges and Sheriffs are made before the crime committed; so that it is impossible for the judges or sheriffs to have a prejudice against any man; but the lord high steward is appointed after they know the prisoner, and he shall be tried according to the humour of the times they are in. There may be lords inclined one way and the other; but in this case, there is a strong thing joined with this passion, which is, their making their own fortunes by serving the present times. That, since the Trial of Peers, in the time of parliament, must be by the whole house, where is the inconvenience, that at all times they should be tried as in parliament? It is a little favour that the lords ask in this Clause, considering the privilege of parliament, for three years last past, has been always subsisting, and is like to continue so during the war: so that the objection is taken away, as to the present government; for they will have the advantage of a parliamentary trial: and possibly, in times to come, there may be an inquisition for what is done now; and it will be well to have the fairest way of proceeding in that matter. That, in the case of lord Delamere, there were several lords then in town, and there were a great many of those

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lords not chosen; and it is a great question, whether that noble lord had come off as he did, if he had not received such notice from the grand jury, and every thing had not been made out so plain. That the argument used by your managers, 'That they could not allow any thing that tends to an impunity,' is a very large assertion, and may be an argument against the Bill; because it may happen, that by giving a copy of the indictment, and witnesses being upon their oaths, a guilty man may escape, and then he has an impunity. This is not intended. All that can be done in these cases is, to put in such reasonable caution, and so far, as a Bill can provide.—That this Clause could not extend to the Bishops; for it relates only to Trials out of parliament; and they are only peers in parliament, where they take their privilege to hear, and then go out again, and do not vote in blood: and by the word 'Peers,' it must be understood of such peers only as are peers in respect of their blood.—That the lords were of opinion, that fewer peers were sufficient to condemn a peer; but this makes no alteration in the argument; for there is not much more difficulty in getting twelve than seven. Indeed there might be greater difference where a crown, or government, was not concerned.—That the excellency of a Jury is, that they are taken *ex vicineto*; what is the reason of this? Why, in case of false witnesses, it is his neighbour that is to save the man. But what security have the lords, when lords are picked out to try them, who are not of their acquaintance, and the lords that know the whole course of their lives to be contrary to what is sworn against them, shall not be chosen?—That it is implied in the commission of the lord high steward, that all the peers should be summoned; for, by his commission, all the peers of the realm are commanded to attend upon him, and be obedient to him; so that the king does not only give liberty, but seems to command it."

That the Managers for the Commons, by way of Reply, said;

"That this Clause would alter the constitution of this court, and thereby a very considerable part of the constitution of the government; and that for the worse: that it is not to be granted, that any new law does alter the constitution: that a new law may be made to strengthen or restore the constitution against abuses, it may be declaratory, it may ascertain things that before were left to reasonable discretion; which are but circumstances and accidents; and, notwithstanding such new laws, the substance of the constitution remains the same: So, by this Bill, the person indicted is to have a copy of his Indictment ten days before he shall plead: whereas now, by the common law, he is to have the indictment read to him as oft as he needs and desires; and to have copies of so much of it as he has occasion to use; and reasonable time to plead: by this Bill, he is to have his witnesses sworn; which, in some learned men's opinions, was the law before: however, it is but a circumstance added to the testimony: by this Bill, he is to have a copy of the panel before the trial; whereas, by the course used now, he hath a copy a reasonable time before: and, by the law now, he is to have a reasonable time to prepare for his trial; which time this Bill ascertains, by a number of days.—But the Alteration, by the Clause in question, is in a most substantial part; and which highly affects the constitution of the government.—That our government is a monarchy: and it is a main part of the king's authority to administer justice by officers of his own appointing.—That the king makes sheriffs; who, for the trial of a commoner, returns so many freeholders as are competent: that the king makes the high steward; who, for the trial of a peer, summons so many peers as are sufficient: That, take away these powers from the high steward, and sheriff, it takes so much from the regal authority; and it will amount to no less than to render the subjects independent on the crown, in the pleas of the crown; wherein, above all other things, the life, peace, and safety of the government is concerned.—That, if a like Clause were brought in, That every commoner should be tried by all the freeholders of the county that would appear, or such of them as they should depute; it could not well be denied, that this were a change in the constitution of the government.—It may as well be said, That it is not any altering of the constitution to divest the crown of the power of making Judges in courts of law and equity, and other courts, or making justices of peace, and other officers.—It was granted, in parliament, by 28 Edw. 1. That the people of any county should chuse the sheriffs: but thereupon ensued such factious confusions and mischiefs in the country, that, by the desire of the people, in parliament, 9 Edw. 2, the power of making Sheriffs was settled in the crown.—That, though the high steward be said to be the Court; yet the peers tryers are so necessary a part of the court, that the conviction, or acquittal, depends entirely on them: and therefore, not only the number of tryers, but the nature of the court, may properly be affirmed to be altered by this clause. That the commons were surprised, when they heard it alleged, That this court, and course of trial, was first introduced, in Henry 8th's time, by cardinal Wolsey, in the case of the duke of Bucks,* and that all trials of peers before were in parliament: The statute made 15 Edw. 3, manifestly proves the contrary. It ordained, That peers should be tried by the peers in parliament; but provides, That if any peer would chuse to be tried elsewhere than in parliament, he might.—Indeed, the statute was repealed 17 Edw. 3, because it was so injurious to the prerogative. But yet it shews there was then such a court and course of trials as this, out of parliament: for they could not, in Edw. 3d's time, divine, that there would be such a new court

* See Cobbett's State Trials, vol. 1. p. 287.

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and manner of trial erected in Henry 8th's time.—That the Trial of the earl of Huntingdon, 1 H. 4 reported in the Year-Books, is no more to be questioned than any other case there: and it is cited, as authentic, by Stamford, in his learned Treatise of the Pleas of the Crown: and his opinion also is, That this way of trial was meant in the *Judicium Parium*, mentioned in Magna Charta: and Stamford is of great authority in this behalf; for that he was cotemporary to the reign of Henry 8; and could not have been unacquainted with this innovation, if such there had been made in that time.—And the very Clause of their lordships now in question, doth affirm the legality of this way of trial: for it distinguishes Treasons which corrupt the blood, from others; and leaves all other treasons, and all felonies, to be tried by peers summoned by the high steward, as it is now used: which shews too, that there is no great danger apprehended to the peers by this kind of trial.—That the commons do not admit, that a peer can be convicted by seven peers: there must be twelve, at least, to concur in the verdict: It is not only said by my lord Coke, but the law is, That no man shall suffer capitally at the king's suit, unless his offence be found by 24 at least, that is, 12 to find the Indictment, and 12 to give the Verdict:—And that there must be 12 peers agree in the Verdict, was resolved in the lord Dacres' Case, 26 Henry 8. Which is remembered in Moore's Reports.*—And the case of every peer that has been convicted, is a proof of this: for it cannot be shewn, that ever any peer was convicted by fewer than twelve.—The *Duodecemvirale Judicium*, some time in use in foreign countries, was always approved, and established by the law of England; and understood to be that authority, to which the determination of contested facts is intrusted: and therefore, in all other commissions and precepts, as well as those of the high steward, wherein the command is in general words: viz. to return or summon *tot et tales*, such and so many persons, by whom the truth of the matter may be tried; it is to be answered and performed by the bringing of 12 persons, who are to agree in the determining of the matter inquired of.—And as to that Clause that requires all peers to be attending; it is but a clause of the same form and nature, as is in commissions of Oyer and Terminer, and other commissions; and imports no more, than that all persons should attend, who are required to do so by law, and it can no more be inferred, from those words, That the high steward is to summon all the peers; than, from the like words in other commissions, all the freeholders are to be summoned.—It is the common notion of our law, That no man shall be convicted of a crime, but by the unanimous judgment of 12 unexceptionable persons summoned by the king's officer. The commons have liberty of challenging; because that fear, or corruption, or other cause of partiality, may be supposed among them. The lords have no challenges: but all peers are esteemed unexceptionable, because nothing so mean and dishonourable is to be presumed among them. Their lordships ancestors chose to distinguish themselves from their inferiors; and always claimed and enjoyed a privilege to be intrusted otherwise than the commons are; viz. They are upon honour, not oath; are not challengeable; give their Verdict *seriatim*; may have more than 12 on a trial; and have claimed a liberty to eat or drink before their Verdict: and they used to value themselves upon these things, as dignities and privileges.—Now the commons, that are forbid to speak otherwise of the present peers, than of their ancestors, are to be excused, if they think no otherwise of them.—That the Commons observed, what their lordships had alleged, concerning the inconveniences or abuses that had been or might be in this way of trial, was grounded upon undue suppositions concerning the peers, or upon mistakes, and not warranted by experience.—That they thought it a strange and foreign supposition, That a great and guilty minister, finding himself liable to an Impeachment next session of parliament, should, by his power, procure himself to be tried and acquitted by an inquest of peers, on purpose, by a plea of *Autrefoits acquit*, to prevent a second and true examination of his crimes; for he must be first indicted of the treason; and then run a hazard, whether his power will be and continue sufficient to oblige so many peers to acquit him by an untrue verdict:—That there is no example of this kind: and, if such an unheard-of proceeding should ever happen, it is left to consideration, Whether a parliament would not vindicate the kingdom against so gross and fraudulent a contrivance: besides that, the Court, as it is to be ordered by this Clause, would be no less liable to such abuse. Their lordships did not assign any sufficient instances of injustice in this court: and perhaps this court hath continued the most unblemished, in point of justice, of any court whatsoever. —That, in the few Trials which have been there for Treason, there have been two acquittals; viz. of the lord Dacres, and the duke of Somerset, besides that of the lord Delamere.—That the duke of Northumberland's crime was notorious, he having been in open rebellion against queen Mary. That, if the earl of Wiltshire had been forced to sit on the Trial of his daughter Anna Boleyn; it seems to shew a greater fairness: and, if the court had been constituted according to this Clause, he must have been summoned; and, if the Trial had been in parliament, he, as well as other peers, had been obliged to come: but the tradition about that matter is rectified, by the discovery made by a reverend prelate, in his History of the Reformation (a book approved by their lordships); where it is made appear, that that earl did not sit upon the Trial of the queen.*—

* See Cobbett's State Trials, vol. 1. p. 407.

* See Cobbett's State Trials v. 1. p. 417.

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But, if all power must be abolished, which is possible to be abused, there must be no power left to the king, or lords, or commons: and perhaps there are not harder cases to be found, than those wherein all three have concurred: of which the attainting Cromwell earl of Essex, without suffering him to come from the Tower to be heard, is an instance *.—That, if any inquisition may be made into what is now doing, it were better to lay aside the Clause, that nobody may have any dependence, but upon the safety of the present government. That the high steward is made *pro hac vice*, or after the crime, is no singular thing. The Justices of Oyer and Terminer, and of Gaol-Delivery, are generally made so twice a year, or oftener; and sheriffs are appointed in every year, or oftener: and all hold their places during the king's pleasure. And, notwithstanding this Clause, the high steward is still to be appointed by the king, in the same manner as before: and in all treasons, but those mentioned, and in all felonies, he continues to have the same power of trying a peer by an inquest of peers, summoned by his precept, as is now used: by which alone the lives and fortunes of peers will remain exposed to as much danger, as they were, if any there were, before this Bill.—That the commons acknowlege they have known, that when a peer hath stood indicted, sitting a parliament, the indictment has been, by the king's writ of *Certiorari*, removed into the house of peers, there to be tried by all the peers: but they do not know, that of necessity that must be done, or that such peer may not be then tried in the ordinary court; and it would be highly inconvenient, in case of long adjournments, if it might not so be.—But it is no concluding argument, that, because there is this extraordinary way of trial by all the peers, therefore the ordinary by a number of peers should be taken away; no more, than that, because there is such an ordinary, therefore the extraordinary should be taken away.—That there is also another way of trial, which, in other capital offences, concerns the peers too; that is, by a jury of freeholders, which their lordships in this debate did commend because those freeholders were of the vicinage, and the prisoner might challenge 35 without cause, and any of the rest of the panel for cause: and by this the peers, as well as commons, are to be tried, in an Appeal of murder, rape, or other felony: but it is supposed their lordships will not allow it to be a good argument, that therefore they should be ordered to be tried so in treason, and indictments of felony: but they hold it a privilege to be tried, in such case, by their peers, in the manner now used.—But the method of Trial, appointed by this Clause, is worse than any of those now in being: and it has nothing of the nature or virtue of a trial in parliament: for the lords house hath power to send for, and cause all peers to come, as they did upon the Trial of the late lord Stafford: but, to this intended court, none are to come, but such as voluntarily will: nor is it required, that there should be 12, or any certain number: if but two or three appear, it is enough: and probably none will come, but the accomplices and abettors, and favourers, and friends and relations of the party: nor is it possible to bring together all the peers there, as in parliament: for, in parliament, the house of peers may appoint or adjourn the proceeding at or to any time or times, and as often as they think fit, till the house be full: but the proceedings in this court before the high steward is the work but of one day.—That, in the last place, the Commons replied, That they did not find Reason to pass this Clause, from what was so much pressed by their lordships; viz. That the Clause did provide such defence for the peers, as would encourage them to adventure to join boldly with the commons in asserting the publick liberties: for the commons do not find, that, by the present constitution, the lives and fortunes of innocent peers are, as their lordships intimated, exposed to the will of a great and malicious minister: and if they were, they do not see, that they would be protected by this provision, since it extends but to some treasons, and to no felonies: and they might say, it does not deserve the name of adventure, for their lordships do act only upon terms of perfect safety.—And, on the other hand, the commons apprehend it would afford too great a prospect of safety to guilty peers; and might embolden them to attempt against the crown, or the public liberties.—That the Commons acknowledge, That these are good times; and, if they are unquiet or unsafe, it is in relation to the crown, and not to the peers: the peerage is in no danger; the peers have power enough; and the crown hath not too much, nor ought to be rendered less safe.—That therefore the Commons would insist upon the old ways; keep the balance of the government, as they found it; and not change the laws of England, which have been hitherto used and approved."

Debate on the said Report.] Mr. *Waller.* I know not, whether it be proper to speak now, or no; but, I conceive, you may amend or restrain any part of the lords Clause. I am as watchful as any man, that the lords should have no increase of power. I think, if the word, 'Temporal,' were put, it would put an end to any thing of the Bishops appearing at trials. If the house think fit, I will offer something. Put it to 'twenty-three,' and the majority will be twelve.

Mr. *Clarke.* I think you are not ready to conclude. You have had a very faithful Report. This latter Conference I shall speak to. It was made part of that Conference: If the commons agree to the Amendments, pass the Bill; but it seems not parliamentary for the lords to tell you what to do.

Sir *Wm. Whitlock.* I think, at the last Conference, the lords did, with all the decency imaginable, offer Amendments. The lords

* See Cobbett's State Trials, vol. 1. p. 434.

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think a peer may be convicted by the majority of twelve, and therefore they desire it may not be in the power of a lord steward to pick out twelve, to take away the life of a peer; therefore he should not summon less than a competent number. If 23 be summoned, 12, the majority, must convict him.

Sir *John Guise.* I cannot speak of lord Rochester's argument, at the Conference, without indignation, supposing a change of government. I am for no compliments in the case, but downright for our liberties. It is proposed, 'That the lords should have 45 peers returned.' Is it that the lords are twice as many as the commons? You must have half the country, if they take the whole body of the peers. If the law must be mended for the lords, why not as much for the commons? Pray let both go together.

Sir *Tho. Clarges.* I attended at the Conference. I desire no part of the people of England to be under hardship, for life, liberty, and property. I would willingly have all the people of England subject to just and equal trials; and to have no manner of disposition to be extra-judicial. One of the robe said, 'He would not take from the king the hank he had upon the lords.' In the eighteen years parliament, there was a proposition of 300,000*l.* per ann. more to be added to the Revenue. When it was told the king, that the question was lost, he wondered, 'since he had above two hundred Pensioners, and Officers, there, whom he had a hank of.' It seems to me a great hardship. Now is the time to put the lords in a condition with the rest of the people of England. Shall we put the house of peers in a condition to give us no assistance? I remember the Declaration for Liberty of Conscience; but it was for Liberty of Popery; and the king said, 'He would never depart from it.' * The then attorney-general said, 'He must aver, that none of the judges ever saw it but in print.' The king sent an Answer to our Address, 'That he must advise with his peers about it.' The lords then made a brave stand; and it was remarkable, the interest of the lords took into it. Then we had good lords, and I hope that place will ever be a nursery of such. I am very sure we had never had the Habeas Corpus Act, but by the assistance of the lords. Nothing is so precious to mankind as life. You are told, 'This trial of the peers is ancient.' I have spoken with men that are versed in Records, and they can go no higher than Edward 4. But whether it be so, or no, it is a great inequality of justice, and ought to be mended by act of parliament. The Records of the Trials of Peers are so embezzled, and made away, that we can have no light; but, since we are come to a compromise, since it is offered, that such a number be only sent for, viz. twenty-three, and twelve to pass upon the Trial, I think this will do justice to them, and justice to ourselves. It ought to be an universal settlement to the nation. In case of Appeals, the commons are *pares regni.* The whole lords, as well as we, are part of the people; and let us not secure ourselves, only a part of the people.

Sir *John Lowther.* I would willingly preserve constitutions, not only of the lords, but of the commons. I know not why those under the same circumstances, should not expect the same advantages. If one part be exorbitant over the rest, then the constitution is in danger. This Bill was never, in the best or worst of reigns, offered till now. 'That an inquisition may come in upon us,' (as a lord touched at the Conference) I know none but the Popish Inquisition, which lost the Low Countries. If the lords have this Clause, for fear of an Inquisition, they, if they have this Clause, may have power to bring it in. The proper and natural question is, adhering.

Sir *Christ. Musgrave.* I hear it insisted on, 'That, by this Clause, the Bishops are brought in to be Tryers of peers;' because, 'That every one that has a right to sit in parliament, is to be summoned.' To this the lords answered, 'That they looked upon the Bishops to be lords in parliament, but not peers of parliament.' It is naturally moved, to put the word 'temporal' before 'peers,' which will solve all that doubt. You may alter the lords Proviso; they cannot, because it was their own.

Mr. *Howe.* I wonder at that, above all expressions, from Treby, 'The king, lords, and commons, are one body, and it is unreasonable there should be a hank but upon one another. The next Successor will take it very ill, that you should think him a worse prince than his predecessor; as ill a compliment to him, as a good one to this! Impunity of crimes is no less justifiable in another reign than this. If you turned out a king, and secured yourselves, was it only to change persons? I fear, persons about this king are not much better than those about the last. He makes his court worse to the king, to advise him to do a thing prejudicial to the people. I wonder we should so soon forget packed Juries. Lord Russel died for want of such a Bill. For fear of losing little places of 500*l.* or 1000*l.* per ann. to betray their country! After we have ventured our lives, and others have good places and pensions, I am sorry we should leave posterity exposed.

The Amendment of 'Lords Temporal,' and 'not less than thirty-six,' passed; and the Clause, so amended, was agreed to by the house; of which the lords were informed the next day at a free Conference.

The King's Speech at the close of the Session.] Feb. 24. Parliament continued sitting till this day, when his majesty, after passing several Bills, made the following Speech to both houses:

"My Lords and Gentlemen: I return my hearty thanks to you all for the great demonstrations you have given me of your affection in this session, and of your zeal for the support of the government. And I must thank you, Gentlemen of the House of Commons, in par-

* See vol. iv. p. 503.

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ticular, for the great Supplies you have given for the prosecution of the War: I assure you, I shall take care so to dispose of the Money you have given me for the public occasions, as that the whole nation may be entirely satisfied with the application of it.—My Lords and Gentlemen; I think is proper to acquaint you with my intention of going beyond sea very speedily; which, I am afraid, has been already retarded more than is convenient for the present posture of affairs: and, upon that account, I think it necessary to put an end to this present meeting; the season of the year being so far advanced, that it may prove of the last ill consequence to continue it any longer."

The Lord Chief Baron afterwards declared, That it was his majesty's pleasure, that both houses should adjourn themselves till April 12, 1692.* On which day the parliament met, and was prorogued, by commission, to May 24; from thence to June 14; from thence to July 11; from thence to August 22; from thence to Sept. 26; and from thence to the 4th of November.

FOURTH SESSION OF THE SECOND PARLIAMENT OF KING WILLIAM III.

The King's Speech on opening the Session.] Nov. 4. The parliament met at Westminster, when the king made this Speech to both houses:

"My Lords and Gentlemen; I am very glad to meet you again in parliament, where I have an opportunity of thanking you, for the great Supplies you have given me for the prosecution of this War. And I hope by your advice and assistance, which has never failed me, to take such measures as may be most proper for supporting our common interest against the excessive power of France.—We have great reason to rejoice in the happy Victory, which, by the blessing of God, we obtained at sea; and I wish I could tell you, that the success at land had been answerable to it: I am sure my own subjects had so remarkable a part in both, that their bravery and courage must ever be remembered to their honour.—The French are repairing their losses at sea with great diligence, and do design to augment their land-forces considerably against the next campaign: which makes it absolutely necessary for our safety, that at least, as great a force be maintained at sea and land, as we had the last year; and therefore I must ask of you, Gentlemen of the House of Commons, a Supply suitable to so great an occasion.—I am very sensible how heavy this charge is upon my people; and it extremely afflicts me, that it is not possible to be avoided, without exposing ourselves to inevitable ruin and destruction. The inconvenience of sending out of the kingdom great sums of money for the payment of the troops abroad, is, indeed, very considerable; and I so much wish it could be remedied, that if you can suggest to me any methods for the support of them, which may lessen this inconvenience, I shall be ready to receive them with all the satisfaction imaginable.—My Lords and Gentlemen; none can desire more than I do, that a descent should be made into France: and therefore, notwithstanding the disappointment of that design this last summer, I intend to attempt it the next year, with a much more considerable force: and, so soon as I shall be enabled, all possible care and application shall be used towards it.*—And, upon this occasion, I cannot omit taking notice of that signal deliverance, which, by the good providence of God, we received the last spring to the disappointment and confusion of our enemies designs and expectations. This has sufficiently shown us how much we are exposed to the attempts of France, while that king is in a condition to make them. Let us, therefore, improve the advantage we have at this time, of being joined with most of the princes and states of Europe against so dangerous an enemy. In this surely all men will agree, who have any love for their country, or any zeal for our religion. I cannot therefore doubt, but you will continue to support me in this war, against the declared enemy of this nation, and that you will give as speedy dispatch to the affairs before you, as the nature and importance of them will admit; that our preparations may be timely and effectual, for the preservation of all that is dear and valuable to us. I am sure, I can have no interest but

* The king embarked for Holland, March 5; and, soon after, a conspiracy was formed in England for the Restoration of king James, which was to be favoured by a descent from France, under cover of a powerful Fleet; which, perhaps, might have succeeded, had not a timely and destructive blow been given to the French navy, by Adm. Russel, off Cape La Hogue, May 19; 21 of their largest ships, besides frigates, &c. being destroyed, without the loss of one ship on the side of the English, or any Commission-Officers, but rear admiral Carter, and col. Hastings. King James and his army had the mortification of being eye-witnesses of this defeat, on the coast of Normandy, which put a final stop to his Invasion; though it was not pursued with the vigour that it might have been, as will appear hereafter. A descent, which was afterwards projected into France, on account of the season was laid aside. In the Netherlands, Namur was besieged and taken by the French king, and king William's army was afterwards defeated at the battle of Steenkirk, July 24. Grandval, for being concerned in a Plot to kill the king, was executed in the camp, August 13; and his majesty returned to England, October 18.

* "In consequence of this, orders were given for having a Fleet for Transports, with so great a Train of Artillery, that it would have served an army of 40,000 men. This was very acceptable to the whole nation, who loved an active war, and were very uneasy to see so much money paid, and so little done with it. But all this went off without any effect." Burnet.

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what is yours; we have the same religion to defend; and you cannot be more concerned for the preservation of your liberties and properties than I am, that you should always remain in the full possession of them; for I have no aim but to make you a happy people.—Hitherto, I have never spared to expose my own person, for the good and welfare of this nation; and I am so sensible of your good affections to me, that I shall continue to do so, with great chearfulness, upon all occasions, wherein I may contribute to the honour and advantage of England."

Nov. 10. The commons resolved, nem. con. "1. That the humble and hearty Thanks of this house be presented to his majesty for his most gracious Speech; and to congratulate his majesty upon his safe return to his people, after the many hazards to which his majesty has exposed his sacred person, and for his deliverance from the malice of his enemies; and to assure his majesty, That this house will always advise and assist him in the supporting of his government against all his enemies. 2. That an humble Address be presented to her majesty, acknowleging her prudent Administration of the Government in the absence of the king."

Nov. 11. Resolved, "That the Thanks of this house be given to admiral Russel, for his great courage and conduct in the Victory obtained at Sea the last summer." And the Speaker gave him the Thanks of the house accordingly. Ordered, That the Commissioners of the Admiralty, and the honourable member that commanded the Fleet, give an Account, to the house, of the last summer's Expedition.

Debate on the Conduct of the Fleet.] Nov. 12. Lord Falkland, from the Commissioners of the Admiralty, according to order, presented to the house several Papers of Instructions and Orders for the last summer's Expedition, in relation to the Fleet; and also several results of Councils of War held touching the same; which were read at the clerk's table.

Mr. *Goodwin Wharton.* I desire the house may be informed, why sir John Ashby had fallen short of his duty, who should have pursued Tourville, when he was divided from the rest of the French Fleet*?

Admiral *Russel.* I received an order yesterday to give an Account to the house of the disposing of the Fleet after the Battle, and why the Victory was not pursued, and Trade not protected, and why the ships lay so long in port after the Battle. There was not one transaction of the Fleet, without the consent of the Council of War; they were all unanimous. I have prepared a Paper to give you an Account how the wind stood, the time the Fleet lay in harbour.

Sir *Tho. Clarges.* I did move that the Commissioners of the Admiralty should lay before you the Papers of their transactions. You are told, by Russel, of the Council of War of the flag officers; but I mean the Council of the private captains, for carrying on the descent, to be made by the Fleet.

Mr. *Foley.* It is not material who was at the Council of War, but I would see the Papers of Opinions of the Council of War about the Descent.

Lord *Falkland.* We have no original Papers of the Descent at the Admiralty Office.

Sir *Tho. Clarges.* I would know why the Fight was in May, and the Descent not till July?

Mr. *Smith.* This seems to me a defective prosecution of the Victory, and not as it should be. I move that you would go gradually to enquire what defect there was in the prosecution of the Victory, before you come to the matter of the Descent.

Admiral Russel's Paper was read, giving an Account why the Victory at sea was not prosecuted, and why the Fleet lay so long on the French coast.

Sir *Robert Howard.* The advice you may give the king, in this matter, may be in the nature of another Supply. Russel did engage, and did fight, but not all the ships, and from them he might justly expect pursuing the Victory that we had got at sea. Stick to this particular, why the Victory was not pursued. An English priest at St. Malo's had abused an Englishman; Cromwell demanded him, and his Admiral, Blake, battered the town so long, that the priest was delivered him. I would know whether the sea and land is not the same as formerly? And if this was done then, why not now?

Sir *Tho. Clarges.* I would know what Answer came from lord Nottingham? They lay long enough for it. I would know, in that time, from July to August, what happened?

Mr. *Foley.* The Fight was on the 19th of May. There is a relation of it under Tourville's hand. If sir John Ashby had done his duty, why were not the French pursued? He pursued but three ships, and so the rest got off.

Sir *Wm. Strickland.* I move that Ashby may be sent for, to give you an Account.

Sir *Ch. Sedley.* I think Tourville's relation is a great reflection upon Ashby. He will do it upon our best men. I would send for him, and let him tell his own tale.

Sir *Edw. Seymour.* I think it fit to have all before you, because you have a seeming accusation. If you examine, and punish none, you confirm the Miscarriages. Why the Victory was not pursued relates to Ashby: Therefore, before you proceed farther, send for Ashby. As for the Miscarriages of the Ships, it is not the business of the body of the Fleet to lurk after particular Ships. Great time was spent to prepare this Fleet. Though they said not, they

* "A great part of the French Fleet sailed westward through a dangerous sea, called the Race of Alderney. Ashby, admiral of the blue, was sent to pursue them, and he followed them some leagues. But then the pilots pretending danger, he came back; so 26 of them, whom, if Ashby had pursued, by all appearance he had destroyed them all, got into St. Malo's."—Burnet.

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would not go aboard. But they are bold Commissioners to advise prosecuting a Descent against the opinion of all the Council of War at sea.—Ordered, "That sir John Ashby do attend this house with all speed."

Sir *Tho. Clarges.* This Descent cost you some hundred thousand pounds. All we find, is bandying it from one to another. The sea-officers will not meddle without the land, nor the land without the sea. Except this Victory at sea, there has been but one act since this war towards abating the French power. I would know, whether the Admiralty ordered this? I have spoken with Newfoundland men, who say that the French go to fish there by August. The French had two little forts there, which were attempted and left, and two little frigates, in 1682, took them. All is very unfortunate. I thought, after a victory, to have been secure in Trade; but we have lost above 100 ships. I would know who had the direction of the Descent? I hear, that after this Victory, it was very terrible to the French. To lie still from the 19th of May till the 24th of July, was very strange! There was great diligence formerly, when Van Tromp put up a besom on the top-mast, and said, 'He came to sweep the Channel.' We were not in so good hands, and good understanding then, as we are now; but then we took many ships. But I know not how it happens, there is not that zeal now to the government, as was then; and though we have been successful at sea, we have been very unfortunate on shore. I would know who had the direction of the Descent, so late, and retarding the land-men?

Admiral *Russel.* It is enquired, what the fleet did after the Fight? I aver, the season proved so tempestuous, that they could not stir. But it is not an argument now (by what has been told you) to what was done 40 years ago about the priest at St. Malo's. It was the 14th of July before the ships could sail, and they must be clean before they take so long a voyage. Neither the English, nor the French, ever sail from Newfoundland till the 20th of September.

Sir *Tho. Clarges.* What Russel says of his own knowledge, I do believe, but the French go always a month before the English come away; and I do say that two privateers did take the fort.

Sir *Peter Colleton.* I move to know, who had the particular charge of the Transport Ships?

Sir *Tho. Clarges.* The thing we would know, is, the time when these ships were ordered; they pretend want of money, but there was no defect of that. I would know when these orders were given? I think the Commissioners of the Admiralty in an unfortunate condition, I think some of them are worthy men; but they are in a hard condition. I cannot but take notice, that if cross orders should be sent to the Fleet, in time of service, it may be of great mischief. There may be cross orders from the queen in the king's absence, and from the commissioners of the Admiralty. The commissioners are admirals by act of parliament.

Mr. *Smith.* I desire all respect may be used to Ashby. The common method is a summons; your order is already made; pray do not make another to contradict it.

Mr. *Hampden.* Your order is for Ashby to attend the house, but not how to be summoned. Therefore I move that the Speaker may summon him by his letter.

Col. *Titus.* I know not how Ashby deserves such a favour as a Letter from the Speaker. You sent for Delaval by your serjeant; I know not why it may not be so now.

Sir *Christ. Musgrave.* I think it is the best way of respect to Ashby, to send a summons, and let your messenger deliver him your order, and he may come at his ease. To receive an order by a messenger of your own, is no reflection at all; but to send a summons by the post, unless it be better managed in other countries than in ours, I know not when it will come to his hands.

Sir *Edw. Seymour.* It is well advised, that Ashby be summoned by your order. I know no diminution to any person to let him know the order of your house by your serjeant.

Nov. 15. The Serjeant at arms acquainted the house, That sir John Ashby having been served with the Order for his attending this house, he returned Answer, "That as soon as any person came to take the charge and command of the Fleet, he would attend the house."

Debate on the Bill for regulating Trials, in cases of Treason.] Nov. 18. Sir Wm. Whitlock moved for commitment of the Bill.

Sir *Tho. Clarges.* I have perused the Bill, and it came last session to a committee of the whole house. But since it has been already passed, there is no necessity that it go into a committee of the whole house. But I submit it to you, whether you will put it to a committee of the whole house, or a select committee?

Sir *John Lowther.* I cannot agree to the bill. I would have the security our ancestors had, be so to us, especially in this time, so few have been tried for Treason. The Bill says, 'Indictment is not to be presented but in ten days;' it is impossible in our county [Westmorland] where the assizes are but once a year, and witnesses may be dead, or tampered with, or the criminal may escape, and so not be punished. I should be glad my country and family may be secured, but I think this bill is no security.

Mr. Attorney *Somers.** I shall never consent that any thing of the liberty of the subject be taken away. I have not given occasion to any man to say I ever strained any construction of law. To several parts of the bill I disagree, but am totally against timing the bill, as unnecessary and inconvenient. I declare

* The former Attorney General, sir George Treby, had been made Lord Chief Justice of the Common Pleas.

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my judgment against the last Clause: the only thing, besides giving Money, by the commons, is the right of Impeachments; if that be brought down to ordinary proceedings, the commons will never undertake Impeachments, when counsel must stand upon an equal foot with the commons, and put themselves under a very low degree. If a man have the good luck to conceal treason for a time, he may escape prosecution. Yesterday perjury was made a capital law.† Taking this bill altogether, it is so difficult to prosecute any man for Treason by this bill, that I think it unnecessary, and ill-timed, and I am against it.

Sir *Christ. Musgrave.* The learned person that spoke last, has thought this bill unseasonable, and spoke to several parts of it, which may be good instruction to your committee. I remember, in the Convention, one Grievance was, misinterpreting the law, and mis-construction of it, in cases of treason. Few but did bewail the misfortune of the last government in misrepresentations of law; and it is just to prevent it for the future. As for the objection about the Impeachments, that is proper for the committee to consider: but I would know whether such a bill is not requisite? If so, what security have we more than we had before? When princes strain hard upon their subjects, it will be hard to get such a law. The time therefore now is seasonable.

Mr. Solicitor *Trevor* †. There are great objections against this bill. It seems to aim at those things that every honest subject ought to do; and if the ends of it could be accomplished, I should be for it; but I take it to be quite contrary: no doubt but we should secure the protection of the lives of the subjects, but this bill gives protection to offenders, and does not preserve the innocent, and then the bill is not to be passed. I shall not deny, but there have been misinterpretations of the law in former reigns; the way to prevent that for the future is to prevent the authors of them. This law now will have no greater sanction than the former laws. There are too many I fear that correspond with our enemies abroad. Now, whether is it proper to pass a law more difficult for prosecution, than in times of our ancestors? nobody but will think then that this bill is an encouragement to impunity. Will the innocent be protected in letting loose so many ill men against the government? What then will be the consequence? Tyranny and Popery will be the subversion of this government. Then will this be a protection to posterity? All the laws we can make, will not protect us, if there be an encouragement to those who would subvert the government. It is said, 'The bill passed last session:' but if it did, the objections against it are stronger now. It is known, since that session what attempts have been made to invade the kingdom, and too many engaged in it here. Though there were not two witnesses against them, yet we are persuaded some did deserve it. Shall we now give them greater encouragement to be offenders?

Mr. *Harley.* I observe that those who spoke against the commitment of the bill, have used arguments that are against the whole bill. If you are not for the commitment of the bill, you are for throwing it out. In the Convention there was a committee for public bills, and this was one of them. Has any thing since been done against offenders formerly? Because you did it not then, will you not do it now? The statute of 25 Edw. 3 regulates Treasons after great revolutions. In Henry 4's time, there was such a revolution as this. It is said, 'The bill is not suitable to the disease;' if it be not strong enough, I hope you will make it so.

Sir *Charles Sedley.* I would by no means endanger the king's safety, and for ours we can do no less than commit the bill; that we who cannot make long speeches, may speak to the parts of it.

Lord *Coningsby.* I always thought the impunity of the government would hazard the security of it. If the plotters succeed, there is no security to you; and if this bill helps to restore those who violated formerly, you are still worse. One particular you allow; public enemies are those who own not the government. Are they to have the advantage of this Bill, and the Papists, that will bring Popish evidence against us?

Mr. *Foley.* There have been misconstructions of cases of Treasons. If there had been no misconstruction in case of treasons but in the late king's reign—But in others, the proper remedy is a law declaratory. If you commit the bill, I hope great care will be taken, that no guilty may be protected. It is said, 'It will be hard by this Bill to bring a man to trial;' but the true reason is, because there is no proper direction given for the prosecution.

The Bill was committed to a grand committee, 170 to 152.

Nov. 19. Sir John Ashby, at the bar, gave the house an account of the reason why the French were not pursued, after the fight at sea, to St. Malo's, &c. "That the Fleet would have been endangered, by reason of the shallows; and one of his captains, a trader formerly there, assured him that he was run aground in a vessel but of 100 tons." And then withdrew. And, being called in again, the Speaker acquainted him, "That the house had taken notice of his ingenuous behaviour at the bar; and had commanded him to tell him,

* A Bill had been ordered in to make it Felony.

† Second son of sir John Trevor (Secretary of State to king Charles 2), appointed Attorney-General in 1695, and on queen Anne's accession, Lord Chief Justice of the Common Pleas. In 1711, he was created lord Trevor, and in 1725, was appointed by George 1, Lord Privy Seal. He was continued in the same post by George 2, and in 1730, was made Lord President of the Council: he died the same year, aged 72.

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that they are satisfied with his account; and that he was dismissed from further attendance."

Debate on employing Foreign General-Officers.] Nov. 21. Captain *Mordaunt* *. I wish the king would reward and punish more than he does; trumpeters and corporals have been made Officers: And I receive not the third part of my pay, to keep up the grandeur of my place of captain. I cannot believe that 14,000 came over out of Ireland. I believe that most people that came over, came for getting. If that be not the reason of the vast debt in Ireland, I hope we shall have another reason.—[The Compiler heard him imperfectly.]

Sir *Tho. Clarges.* We have been told of great Misdemeanors in Ireland; the government is divided there into civil and military hands. I would know, who had the command of the Army in Ireland, lord Coningsby, or lord Athlone?

Sir *Peter Colleton.* There are many brave men in the nation, and some sit in your house, qualified for General-Officers, and there is no need of Foreign General-Officers. The foreigners would have raised the siege of Athlone; the foreign generals were against storming; but an English general was for it, and it was taken: for ought I know, had it not been done, Ireland had been still to reduce. Englishmen naturally love their country, and will not willingly destroy their country. Foreigners cannot have that affection for England. When king James set up to overthrow parliaments and property, the English officers gave up their commands. We know not how soon we may fight for our all on English ground. I think we are much safer in English hands than in Foreigners. None are ignorant of the melancholy story of Steenkirk†; every one knows that tragedy. The common soldiers had no opinion of their Officers. I move, "That none but Natives should command Englishmen."

Mr. *Wharton.* The thing is just, to encourage Englishmen, and as long as there is a necessity of a war, I would continue it on our own foundation. We want not Foreign Officers; we have natives fit for employment. Nothing but an English Army can preserve our English liberties and properties. Encourage them to be entirely English, from the soldiers to the officers.

Lord *Falkland.* I have as much esteem for English officers as any body, but the king, who is a witness of their actions and merits, is the best judge. I would have that come only from the king. You know not what officers the king designs. When you come to the State of the War, it will be proper to speak to this then.

Sir *Edw. Seymour.* I wonder, that, on such a subject as this and so little debating upon it, gentlemen call for the question so suddenly. I shall only observe, that there is a great deal of difference in what came from Brackley (Mordaunt) and what from town. There was nothing of mutiny for want of pay, but for the reason of it; Subsistence money was regularly paid, sixpence a day, but threepence, the off-reckonings, was for cloathing and necessaries. This has been punctually paid. It is true, officers have but half pay, and as for trumpeters, &c. it was rectified, because, under the notion of officers for Ireland, there are Commissioners stating the Accounts of Quarters, how much is owing to the country. Thus much I can say, this falls not out by chance. We have had experience, that Officers, to whom money has been paid, have defrauded the soldiers, and let the soldiers do what they will, as to that—In relation to Foreign Officers, that fell not out by chance: it was necessity, and not chance. Men are not born generals. A man may be a good officer, and not a good general. We have not of our own men fit for that employment: the king knows men, and I hope you will not offer the king men unfit. Men that get into employment, think it an injury if they are not captains presently. Men that have not gone through all employments, can never be fit for the Army, or Navy, and return with all disadvantage. What number have you fit for General-Officers? They are few; and will you think to discharge and send away Foreigners, till you have generals of your own? I am not for foreigners, for foreigners sake. If we have not General-Officers of our own fit for this employment, I hope you will not put the Foreign Officers out.

Captain *Mordaunt.* I hope, as good advice may come from Brackley as from Exeter (Seymour.) If there are ill men, both in the State and Army, I care not how soon they are punished. Great men have had great sums in Ireland, that have nearly cleared the pay. As for General-Officers, I would have no man discharged, that has done well by the English officers. I have served under foreigners, who did very well, and I hope they will be excepted.

Sir *John Lowther.* I find some ambiguity in the question, viz. 'That, for the future, no foreign general-officers shall command Englishmen.' What will you do with those you have? The great ignorance of military affairs, in king James's Army, was not one of the least advantages of the Revolution, by the conduct of these foreign officers; when an army is only for parade at home, and nothing to be done abroad. From the foreign officers we had experience. I do not question, but in two years, we may have general-officers of our own, but we have lost four general-officers, which is a great many, and no wonder we have so few. It is the proper business of the crown to bestow marks of favour on the general-officers, and I doubt not but the king will take care to do it. Therefore I would not put this question.

Sir *Ch. Scdley.* I think it the highest ingra-

* Second son of lord viscount Avilon, and nephew to the earl of Peterborough. He was member for Brackley, and in 1699, was appointed Treasurer of the Ordnance. He died in 1719.

† See p. 707), Note.

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titude to turn out those generals. These gentlemen have been the king's companions of his arms; it will be hard upon the king to turn them out.

Earl of *Ranelagh.* No man shall be more for the advantage of England, or Englishmen, than myself; but pray look into the matter of fact. The king has not resolved on his general-officers for 1693. For the present, there are two generals, five lieut. generals, five major-generals, and ten brigadiers. If you examine their names, you will find two lieut. generals, English born, the earl of Oxford, and general Talmash; the duke of Schomberg, M. Auverquerque, the earl of Portland, and the duke of Leinster, are naturalized. The old duke of Schomberg's son you will look upon as naturalized. There are six brigadiers that are English. The last session, every one of these men had the approbation of the house, and money given them; and not one of these but ventured their lives for reducing Ireland, and delivering you from Popery and slavery. Pardon me, if I say, this will look ungrateful. An army composed of several nations must have generals in several places. In the last campaign, the king made three natives major-generals, viz. the duke of Ormond, the earl of Scarborough, and col. Bellasis. Douglas, Kirk, and Lanier were lost.* We know not who the king intends for general-officers this year, 1693; and if, upon the list, you find any foreigners that you approve not of, then is the time, when the king has determined it, to address him.

Sir *Tho. Clarges.* We are told by the honourable person, 'That one chief governor of Ireland could not redress the disorder of the Army, because he had not the command of the army;' but he should have told you who commanded. I was of the Council in Ireland, in 1662 and 1663. I know, though the Army for some time had not two months pay, there was no complaint; but there was a contribution of provision settled; things were quiet then, and the lands were planted, and the loss equally distributed: but the reason of the disorder might happen from the generals, who do not understand the nature of Ireland. You are told, 'We can have no general English born, and therefore we must make use of foreigners.' I can name ten, who, if they were now in France, would be marshals of France at this day. If they have served 20 or 30 years in foreign wars, I believe they are as fit as any foreigners. It is true, they are not earls and lords; they are private men. I have known troopers, and foot-officers, risen up to be fit for generals; many that have served in Portugal and Tangier. It is impossible that the king could know this, if men about him will not inform him. It is said, by lord Ranelagh, 'You have approved of them, and given them money.' I thought such a List, as he has named, sufficient to command 100,000 men. But if so many are cut off, I fear the king's expectation will not be answered with success, without English officers; but if we are so unhappy as not to trust English officers, it is impossible but, by the date of their commissions, that English Officers should come to preferment. Every private soldier, and officer, thinks he has an interest in the laws and religion. From this ingratitude to the Officers, you have lost the discipline of the Army, because they are not commanded by those of their own country; and then you shall not have that licence of free quarter. You had an Act within an hour of passing, against Free Quarter; I know not how it slipped, by what counsel; but for quarters in private houses, mens hearts begin to be alienated. I know not well when Subsistence began, for formerly the Army was paid every two months; but then a scheme was made, so much for the Army and Contingencies; and then nothing was added to the Establishment of the Army, but by the two Secretaries, the Council of War, and the Lord Treasurer; this was then, and the secretaries of state did not offer a commission, till established. To this day, there is no Establishment of the Army. But if the king is misguided by false lights, I know not where it will end. What is intended, is for the service of the king; but as for foreign generals, I think it is for the king's service that English Forces be commanded by natives.

Lord *Colchester.** I find the business of Steenkirk sticks with some gentlemen. The chief occasion of the ill success there was the wrong information given to the king of the ground we were to pass, which was so full of hedges and woods, that we could not draw up one body to sustain another; horse and foot were mingled. I saw the attack made by Fagel; Dutch, English, and all nations: they beat the French from hedge to hedge, but their very weight of men bore us down. The French came up to us, and Auverquerque came up, and behaved himself as well as any man in the world. He sent us two Danish regiments, and we retreated to the main body, and from thence to the main camp. Others can give you an account; but as for what lord Castleton has said, it must be by hearsay; he was not there himself.

Col. *Earle.* No man is of less sufficiency to speak than myself. I have had the honour to serve in three or four parliaments, and have not troubled you. I was a colonel of foot in the engagement at Steenkirk, where the ground was mistaken, and so we were forced to retreat. As to the question, no man is more pleased than I for English Officers to command the English

* Sir Robert Douglas, and sir John Lanier, were killed in the Battle of Steenkirk.

* Colonel of the third Troop of Horse Guards, and son to the earl Rivers, to which title he succeeded on his father's death, in 1694. In 1706, he was sent to command the army in Spain; in 1711, he was sent ambassador to Hanover; and in 1712, was made Master of the Ordnance.

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Army; but I do not think that 3 or 4 years service can make a general. I wish we had men fit; but before you have them, pray do not rid yourselves of all foreign generals. I hope, when you come to the question, you will not part with all the foreign generals, before you can have some of your own to come in their places.

Col. *Godfrey.* I find gentlemen possessed with great Miscarriages, especially at the Engagement at Steenkirk. The difficulty was so great, that, if we had not succeeded, it might have been the loss of Flanders. Other nations, as well as the king of England's subjects, and particularly the Dutch battalion, did behave themselves with great honour; but whether they came down early enough, may be doubted. The French poured so many dragoons on us, that there was no standing; so the prudentest way was to retreat. The king was ill informed of the ground, and we could not bring our men into any manner of line. The foreign generals are of great experience and bravery; but I can come thus far up to the question, 'That none but the king's native subjects should command Englishmen for the future.'

Col. *Cornwall.* When this attack was formed, Solmes was there, with ten battalions, to sustain them. Solmes said, 'That to send more men, was to slaughter more.' They received orders from Solmes, which never came near them.* Reduce the question singly to Solmes; put it upon him. He is a man very haughty, and puts officers under such hardships, that I am sure the service will be ill done as long as he is general of the foot. He was made general at the king's coming over; he was before colonel of the guards; and I move for Talmash to be general.†

Lord *Colchester.* I think Talmash is fitter for it than Solmes; he is full as brave a man; but I was not posted so in the engagement as to know what is said of Solmes.

Col. *Godfrey.* I think there is not a better nor more deserving man than Talmash. Mr. Wroth came to me in a great heat and anger—Talmash desired the king to send battalions. The king ordered Mr. Wroth to go to count Solmes, who said, 'Tell count Solmes, I will not go near him.'

Sir *Tho. Clarges.* I will tell you the notice I have had of this. I was informed that the advanced party under the duke of Wirtemberg, and general Mackay, made an attack at two o'clock, and possessed themselves of the enemy's guns, and drove them from hedge to hedge, and the army was two miles off—If they had been sustained, what a glorious victory might we have had! The enemy flew before us. The duke of Ormond got three or four battalions; but being met by a superior officer, was asked, Whither he went? he said, 'To sustain his friends:' But he was stopped.

Mr. *Wharton.* I shall collect, in a few words, what has been said. Though comparisons are odious, yet, in this case, they are necessary. Talmash is a better man than Solmes. Ask whether the French sutlers did not begin to plunder our camp. The question is, If count Solmes did not sustain those men? the point is clear. The king having not yet named Officers, now is the proper time.

Mr. Comptroller *Wharton.* I will not trouble you in a thing I so little understand, as an Army. I am sorry for the comparison between Solmes and Talmash: I think only, that Talmash has served very well; and the longer you use him, the better you will like him. I wish you would lay the question aside; but I would vindicate your countrymen, and frame the question something of this kind, 'That, for the time to come, the king would be pleased to fill up the Offices of the Army, as they shall become vacant, with his own subjects.'

Mr. *Waller.* This day's debate ought to increase the good opinion of the king of his English officers. I am for the question moved by Wharton; but with this addition: 'Or such as have been naturalized.'

Mr. *Smith.* This will take off those who possess the king that he can do no service without foreigners. I am not fond of a favourite, because he will not lay his bottom in England, but retire from hence upon farther occasion. By the true friendship I have for Talmash, I would not, under the notion of a service, do him an injury; but consider, you are putting out and putting in Officers for the king. Pray put the question in the most decent manner, 'That, for the future, the king would be pleased to employ no foreign general-officers.'

Col. *Cornwall.* You have all the Foot under Dutch general officers, and the cannon too. I hope they will not play foul play; but if they should, you have a scurvy business of it. Whether a general ought not to be stirring about in an attack, and whether the soldiers were satisfied with Solmes, you may enquire, before you form your Address.

Sir *Tho. Clarges.* I am afraid that, by this debate, you are making general officers. You gave Thanks to the king, and approved of them all. I hope, when the State of the War is given in, you will not find so many General-officers. I think this is only preparatory for the next year.

Sir *Christ. Musgrave.* Several things have been propounded for laying aside the question. The weightiest argument I hear is, 'That it is not seasonable, because the State of the War is not before you;' but that is a reason against it, if the king takes his resolution be-

* "Count Solmes bore the blame of the errors committed on this occasion. The English had been sometimes checked by him, as he was much disgusted with their heat and pride. So they charged all on him, who had some good qualities, but did not manage them in an obliging manner." Burnet.

The king would not admit count Solmes to his presence, for many months after. He was killed the year after, at the Battle of Landen.

† General Talmash was killed the year after at the attack of Camaret-bay, near Brest.

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fore that come in. The king has desired you to advise him; can you do better, than in what is of so great concern as the Fleet and Army? It is said, 'You have given Thanks to the king, and approved of them all;' but shall it be entailed always upon foreign generals to continue them for ever? If we have peace, to keep them, and discharge all the English general-officers? You are told, 'The king was misinformed of the ground our men was engaged upon.' I would know, whether the general did view the ground, and not trust other men? If so, sure that was an unpardonable fault. If all that are in, shall be in, what is your Vote for? if you mean for the future, do you mean for this time? If not, then they will be continued. Though I have a great honour for Talmash, and hope his service will be valued as it merits, yet pray explain plainly, if you mean all the general-officers to continue, or from this time; else your address is nothing.

Sir *Edw. Seymour.* I would have all your Advice such as you may justify in another place. It is to be passed conjunct by both houses. The king asks Advice of both houses; and pray let us take no Resolutions from hence, that we shall not be able to justify to the lords.

Sir *Edw. Hussey.* If that pass for an argument, 'That what we do will not be acceptable to the lords,' then we may do nothing. When gentlemen get preferment, I observe they are apt to be gagged, and abandon the interests of their country. Let a brand be set on them, or him, whoever they are.

Mr. *Hampden.* I easily guessed, that you had gone far enough in a debate that has occasioned this heat (I know what a gagg is). If my poetry be as good as Hussey's, Solmes is nearly related to the king. For such a person to have a brand upon him! I move, That you would lay the debate aside.

Sir *Edw. Hussey.* I desire to explain myself. I meant not Hampden; but if he be one that has abandoned his country, then I mean him.

The question was put, "That the king be advised, that no General-Officers, for the future, shall command Englishmen, but such as are Natives of his dominions."

Mr. *Harley.* I find, gentlemen have showed as much modesty in the house, as courage in the Army. I would make this distinction in the question, 'That the English Foot may be commanded by the English generals.'

Mr. *Foley.* It is a great prejudice, that English forces should be commanded by foreign officers. When the law sets some men at liberty by Habeas Corpus, that a foreign Officer should set guards upon them, has given great discontent in the Army. The king is not like to be well served thus. This summer there was a mighty great confusion in the English army; orders were given in Dutch, and French, to the English, who understood neither Dutch nor French. Our officers are men of estates; to subdue the enemy, and not make a trade of the war. There will be no end of the war, but pushing for it. If our men had been seconded last summer, there had been an end of the war, and no need of this debate. The General-Officers were at dinner, when they should have sustained our men, and other officers with them; they have been the loss of the victory this year. I would prevent them for the future.

Lord *Castleton.* Orders were showed to officers in French, and Dutch, who understood neither language. I stand up for the question. I am sure we had better have natives than foreigners for general-officers.

Sir *Tho. Littleton.* Foley has assured you, 'That we might have had the victory last summer.' The fault was in the general-officers, not your countrymen. But all he says, is from hearsay, and they are as much to blame that were at dinner.

Col. *Granville.* Till the French king had German troops and Italian ministers, he never could enslave his country. All commands in the army for these four years have been in foreign hands; and the descent in the French-men's hands.

Sir *Robert Rich.* I was none of those that fawned on the Dutch when they came in, and nauseated them when they had done our work. Talmash, whom I honour much, has a fair rise, to come up from colonel to lieutenant-general. I hope the king will consider all we have said, and take order in it.*

Debate on the King's asking the Advice of the House.] The house of commons then went into a grand committee; on that part of his majesty's Speech, whereby he desires the Advice of this house. The Report was read of Ships taken by the French, for want of Convoy.

Sir *Tho. Clarges.* The king's Speech asks your Advice to take such measures for the common interest against France, &c. Our first consideration is to know the state and condition we are now in; if we know not that, if we understand not that in some sort, we shall never be able to preserve ourselves, or support the war three years. At sea we have been very unfortunate, since we were at war, whether by unskilful management or treachery. One year we were driven into our ports, though, as the lords of the Admiralty represent it, we were strong. The French covered all our seas, and we were surrounded, and we lost 1500 ships. Three millions stock of the nation was lost for want of guarding the sea. How we are at sea, we see to-day by the Report. One of the Admiralty, Priestman, was named, how he should say, 'If we keep one ship in three, it is enough for you.' The robbers all over England, is a certain sign we are impoverished; twenty in a company. The last year, we had a victory at sea; the king rejoiced at it, and so did we; but we are unfor-

* The above Debate is not mentioned in the Journal..

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tunate that those we have overcome, yet, notwithstanding this victory, take 1500 of our ships. The reasons why the victory was not pursued do not satisfy me. You have heard of a priest, who abused some Englishmen, demanded at St. Malo's, &c. in a former government. (See p. 709). Why should not we preserve the strength and honour of the nation as well as they? By the method we have taken, I fear we have undone all our allies. As an island, naturally you should strengthen the sea; yet we send all our force into Flanders, where you draw all the strength of France, where he is irresistible. Holland, Brandenbourg, and the rest of the confederates, had 90,000 men in the field, and could not save Namur, the barrier for Holland; and in the mean time we ruin England. It is too memorable to be forgot, the ill success we had at Steenkirk; and our countrymen might have had a glorious victory if they had been seconded. There is no diminution by ill success, but attempting things improbable ruins us. There must be some unskilfulness in councils, and, in the king's absence, no advice but must come from the king first. The strength of the nation is the commonalty, and I doubt not but the king will take the commons advice. I should be glad to hear some wiser than I speak their judgments in this condition we are in, to advise something to relieve us.

Captain *Mordaunt*. I know no Great Council of the nation, but here and the Privy Council, without a private Cabal. Most of those people that king James left behind him are continued in places of trust and profit. I hope they will take care to chuse us better—Those allies we have, must either come sooner into the field or when they come there, do better. One advice that I desire you to give the king is, that the army be better paid; though I mix my interest with your advice. It is hard that we should pay for our heads at home, and not be paid for venturing our lives abroad. We have but a foul prospect abroad, if not better sustained than we have been. 'Tis better for foreigners to carry on a foreign war. I would have all those worthy foreign generals returned, though to our great loss (jeering.)

Mr. *Wharton*. When the king asks your advice, is it because he sees great necessity for it. I doubt not but the king sees that private men, called a Cabal, have led him into some errors, and calls for your Advice: which is the best thing he could do. The State of the nation has been in a great measure opened. I would make the most of the allies, and not the least, and I hope we shall stick to them, and they to us. To advise the king not to go abroad, is so tender a thing, that I would not advise it. If the confederates are lost, I think we are lost with them, but you may hold out longer than they. The English want not bravery nor understanding, nor want money, nor hearts to give, but the great fault is, the English are not led on by officers of their own nation: they follow them naturally, and trust them more, and foreigners ought not to concern themselves so much. In the last engagement, our men were not so led on as they should have been, and they reaped not the advantage of so much honour and bravery as they showed. Really we must not deny ourselves; we grow less and less, and must not destroy ourselves and posterity. I honour those gentlemen in command, and I think they have done for the best; but it is reasonable that there should be an equal number in the Admiralty of gentlemen bred at sea; and I desire one part of the Advice may be, 'That the Commissioners of the Admiralty may have an equal number mixed.' For the Civil Government the council is the soul of all. You have had one secretary of state, and it cannot be denied, but that is too great a load for one man. There have been, always two, that one might be a curb to the other. The matter of Government lies there. The man in that government ought to be very generous, because of getting secret intelligence; those managed by them must be rewarded, and well chosen. This is of great weight, and if the Secretary be not ready to give something of his own to reward persons, besides the public allowance, intelligence will starve. The next quality in a Secretary of State is courage and bravery, so set and tempered for the cause, that he is to hazard himself and fortune for that interest. In a difficult government, and when there are great enemies to oppose in such a government, persons that are entrusted most, do some bold action for the government. This makes it absolutely necessary to represent to the king, that he must have Secretaries with these qualifications. In intermissions of parliament, kings have consulted with their Privy-Councils; formerly they went not into lesser Cabals—Under any other notion none can be distinguished—Suppose, not well affected to the Government—There are no Books or Records to be seen, and you cannot punish them, because you have no light into their actions—I move, 'That a part of your Advice be, that the king call his Council, and that they do set their hands to their advice, or their dissent.' These are some of the chief Heads of your Advice, I believe, that you are upon. Then for the Lieutenancy, and particularly that of London—I hope no gentleman will attribute what I have said to any thing of party. I would have but one distinction made; that is, who is for this Government, and who against it—Not to have this Lieutenancy totally altered, but there are so many ill men in it, and so unfit, that I doubt, if it should come to a push, you would be foiled. One thing also troubles me much. I think that unhappy division worthy your notice. I mean that unhappy breach between the Princess and the Queen *; she is presumptive heir of the crown.

* "Upon the earl of Marlborough's disgrace, his lady was forbid the court. The princess would not submit to this; she thought she ought to be allowed to keep what persons she

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When things are gone so high, it becomes your care that no corner may be to have recourse to. I know that there are no fallings out among friends, but there are some mistakes; when found out they are the easier brought together. Therefore my thoughts on this matter are, that you vote, 'That it is the judgment of this Committee that two or three be appointed to wait on the Queen to know the cause of this difference, and to receive an answer from the Princess;' and I hope there may be some fruit of it. The king ventures his person and life—Consider, when he is abroad, you cannot have that success in the government, in going and coming for orders—Some orders must be too late. The queen has done all things, in the king's absence, like a prudent woman, and a good wife, but if she thinks fit to send for orders from the king, when beyond sea, before any resolution be taken; I hope for the future you will take care of it.

Mr. *Harley.* I cannot pretend to add to what has been said, but I hope there may be some fruit of it. It is proper to proceed by steps regularly. I would first take into consideration the Sea, and what condition you are in there. The Sea must be our first care, or else we are all prisoners to our island. We have had a glorious victory at sea; though we have had the honour of it, your enemy has had the profit, by taking our Merchant ships. Edward 3, had the greatest advantage in his invasion of France, by being master at sea, where he had a glorious wound—The king tells you the danger—and we are a miserable nation, if the sword be drawn amongst us. The pretence of a descent into France has been a topic used to get money from you. I am sorry to be told, that the orders of it were not practicable; if not, why were they given? If practicable, why not followed? I hope the king will not consult empiricks, but take the Advice of this house.

Mr. *Waller.* I move, That you would take one Head after another. The motion was made to put the Admiralty into hands that may be trusted, of skill and fidelity.

Mr. *Smith.* I shall speak only to the Sea. No man but will allow that it has been ill managed. The Admiralty apply themselves to it as much as they are capable; I wish their knowledge was as much as their fidelity; but if they were ever so knowing, I fear they have no power. Orders are sent to the Fleet from time to time, and they have no knowledge of them: they give Commissions to the Admiral, and he is to have Instructions elsewhere. I would enquire how it should happen, that when a descent was resolved by a Council of War to be impracticable, yet orders were given to pursue it, and your ships that were foul to lie by, and no orders to clean them, and that those that were clean had no orders to go out? You are informed of Salvage, for reward of re-taking ships, detained, and the men forced to plunder neutral ships: The Salvage paid into the Admiralty. I move, That all Orders for the Fleet may be hereafter from the Admiralty, and persons employed in it proper for the employment.

Sir *Richard Onslow.** I am improper to speak on this subject, being one of the Commissioners of the Admiralty. I have always observed, that gentlemen are tender of the honour of gentlemen. I believe that, notwithstanding the report that has been made, the Admiralty can justify themselves. All the complaint of the loss of 1,500 ships comes from the insurers principally, and not from the merchants. Pray proceed, head by head, on the Report, and let the Admiralty answer it.

Col. *Granville.* I am obliged to give you an account of the Report. Since I am up, I will say something to your question. It is no wonder that of late we have been so unfortunate; since unsuccessfulness is the natural product of unskilfulness. The work is too great for the Commissioners of the Admiralty. We had the good fortune to beat the French Fleet, and how came that to be unsuccessful? The fault was not at sea, it must be here; we were never more pestered with privateers; their trust is too great for the commissioners experience. It is a great while since the battle at sea, and sir John Ashby has not been examined any where about the prosecution of the Battle, but at your bar, and he must, with all that guilt upon him, be still trusted. I have all respect for the Commissioners of the Admiralty, that they are very well intentioned for the government, but I should be glad that trust was put into the hands of those that have experience. I believe they think not themselves skilful admirals; it seems the government does not think so, for the Fleet must have such orders as the queen shall think

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pleased about herself. And when the queen insisted on the thing, she retired from the court. There were, no doubt, ill offices done on all hands, as there were some that pressed the princess to submit to the queen, as well as others who pressed the queen to pass it over: but without effect. Both had engaged themselves before they had well reflected on the consequences of such a breach; and the matter went so far, that the queen ordered that no public honours should be shewed the princess, besides many other lesser matters; and the breach continued to the end of her life. The enemies of the government tried what could be made of this, to create distractions among us; but the princess gave no encouragement to them, so that this misunderstanding had no other effect, but that it gave enemies much ill-natured joy, and a secret spiteful diversion." Burnet.

* Speaker of the House of Commons in 1698, and in the reign of George 1, one of the Lords of the Treasury, and Chancellor of the Exchequer. On resigning those Offices in 1715, he was made one of the Tellers of the Exchequer during life. In 1716, he was created lord Onslow, and died the year after. He was uncle to the celebrated Arthur Onslow, who was Speaker during the whole of the reign of George 2.

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fit. If they must not be trusted with orders, I think them not fit for this great affair.

Lord *Falkland.* That which seems to be the ground of the question is, the Report made from the Committee. I may say that report was too sudden, and there are material omissions in that report. A great part of your losses proceeds from getting protections, and they get insurance, and so venture out, and are taken; this ought to have been maturely examined, when, where, and how lost. Unless you have ships for cruising, let who will be admirals, it will be the same thing still. There is experience required in a Chairman as well as an Admiral.

Col. *Granville.* I appeal to the gentlemen of the committee, if one third part of those ships foundered at sea, as is said? Alderman Berry said, 'If he had time, he could make it appear that 3,000 ships have been lost.' Priestman said, 'If one ship in three escaped, they were gainers.' But sir Robert Rich said, 'He was of another opinion.'

Mr. *Smith.* I do acknowledge, lord Falkland did tell you, the last session, there were not ships enough to cruise—But the Dover frigate lay a fortnight without orders for cruising.

Sir *Tho. Clarges.* I never saw the like upon this occasion. You ordered a Report, that was made on Saturday; and now we spend all our time in arraigning that Report, and the house. I think it very extraordinary, after the Report has been received, for all the committee to be arraigned, and to put you from your business. Advice is now your business. In all the public prints, there is not a week but you have news of losses at sea of 20, and 30, and 50 ships. This of lord Falkland is but a little matter of the complaint. We are obliged to the Hollanders to set out 50 ships and 17,000 men; if so, we have 13,000 men to supply our trade, and make convoys. I was in hopes we had sufficient men to guard the seas.

Sir *Edw. Seymour.* I did easily foresee that a debate of so large a field would be a long one. I would be tender how I enter into the debate of the insufficiency, or unskilfulness, of the Admiralty. As for the first, it cannot be attributed to an Englishman; for the latter, I am sorry it is so great, to the ruin of themselves, and the whole nation. As for Alliances, if once you shake that part of alliances, they can make peace, and you not, when you want those alliances, and the ally against you that will be worse than the alliances. I agree, it is for the interest of England, and its security, to be found only in the Fleet; but this I agree by the way, if you are at the charge of a fleet only from Spithead to the Land's End, you will have a very ill account of the war. If you have no other ways to annoy the French king, but your fleet, you will come short of expectations. Before you advance any judgment, or advice, know how these things come to pass. That the Admiralty is not trusted, is a mistake; they are as much trusted as ever any. The number of ships was never in the Admiralty. The question is, Whether there has been any neglect in securing of Trade? Then, they failed in their duty, but if it cannot be prevented by them, they are not in fault; merchants run away without Convoy, for lucre, and fall into the hands of the enemy, and they are gainers if one or two come safe home. Your losses have been as great in other wars as this. I do affirm, that you have not ships enough to maintain the War and Trade too. If there had been, there had been reason for your advice, but now the Commissioners have got experience, and at your cost have learned it, it would be strange to turn them out.

Sir *Tho. Clarges.* I would not have the house misled. It is said, 'you have no convenient ports.' But at Brest, and St. Malo's, they must have several winds to go in and out; and if we have no more ships, we cannot help this. But you gave 1,700,000*l.* for the Ordnance and Fleet, which, considering what wear and tear you gave for ships, would have built ships for the service of your trade. No aid formerly was given for Ships; the Customs ought to be for that. The first Money was not half spent for Ships, and till you appropriated it, it was not done. We never lost so many ships in so short a time. To have such great losses, and we know not how, is very unfortunate. I think it reasonable, under such misfortunes to change hands, not only in the Admiralty; but I would go through all. I think the charge of so great a fleet, though very wise and gallant, too great for one man. The French king had some others joined with Tourville. In this extremity we catch at the first thing we light of.

Col. *Austen.* Give me leave, my modesty safe, not to confess myself so ignorant in the affairs of the Admiralty as some gentlemen would have me. If I show there is no fault at all in the Admiralty, I take off all that has been said against them. Of what was alledged at the Committee; there was no proof, no names of ships, no places, &c. The insurers have brought these losses upon you, by making the ships ready to go without convoys.

Sir *John Lowther.* I fear there is something in the question, that may give the house occasion to repent afterwards. It is said, 'Ships have been lost,' and you have had reasons on one side, and another, why, you were told of want of Ships last parliament. And the office of insurance have 40 per cent. if the ship comes safe home, and if taken, 20 per cent. and so the merchant cares not if his ship be taken. I hope some remedy may be provided for this.

Sir *Edw. Seymour.* This happens unluckily, that the only person of experience is the only person complained of, Priestman.

Sir *Tho. Clarges.* This is to excuse Priestman, who should do it himself.

Mr. *Finch.* I have heard of complaints, and I wish things better managed; but when I give judgment, I must see that these Miscarriages be proved. As for the power of the Admiralty, I am not able to determine that

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matter, but to say their commission does not authorise them, is no objection upon the persons. I can neither condemn nor justify the ability of the gentlemen of the Admiralty. As for the Merchants, they are hasty to make their profit, and this, it is said, comes from the Insurance. The ship that was retaken by seven men and a boy, when they came home, demanded their reward, and had it declared in the Admiralty; but the owners were so far from allowing it, that they moved for a prohibition: it was wondered at; but being enquired into, the merchants were sorry the ship was retaken, and would have been much greater gainers by the Insurance, if the ship had been lost.

Col. *Churchill.* Some men are employed in the fleet, not seamen; as capt. Warren, condemned for cowardice, and in the West Indies he lost a ship of 50 guns. We have Brewers Clerks put in for commanders by the Admiralty.

Sir *Robert Rich.* If I had put a man into the Fleet in command, not a seaman, I were not fit to sit in the Admiralty; but, as to what is said of taking men upon trust, I know not this captain Warren condemned for Cowardice. I know not that he was a brewer's clerk, but he married a brewer's widow. He submitted to all the examination of the Admiralty. That he was an eminent seaman, the navy-board testified; but the hurt is not here: till you bring the Fleet to better discipline, to prevent the captains from taking Convoy-Money,* the Fleet will never be in a better condition.

Col. *Churchill.* Since Rich has mentioned taking Convoy-Money, I hope some will be punished for Mismanagement, as others have been for taking Convoy-Money.

Mr. Attorney *Somers.* As the question is worded, I cannot come up to it. If the question be, 'to constitute persons skilful in maritime affairs,' it must imply, that those that are in the employment of the Admiralty are not.

Admiral *Russel.* I am so sensible that I am not able to give advice in what is before you, that I shall not offer at any. That there is a loss of Merchant-ships, there is no doubt of; whether provision has been made to secure them, I shall not say. It is impossible to have a Fleet and number of ships to guard forty places. Possibly the Commissioners did not so well understand the business of the Admiralty as they do now; and as for what Priestman said of the Merchants losses, I should have said it myself.

Resolved, 'That his majesty be humbly advised to constitute Commissioners of the Admiralty, persons of known experience in the Admiralty-affairs."†

Nov. 23. The house again went into a grand committee, on the Advice to the King.

Mr. *Foley.* The Admiralty and Navy, points of the greatest concernment, we should have begun with. The king calls for your Advice, and we are in an unhappy condition. When we entered into the war, all agreed that the enemy was very powerful, to enslave his neighbours, and had gone a good way in it; and that made the States of Holland entrust a Stadt-holder with power. That which encouraged us to enter into the war was, that our neighbours were unanimous to suppress this power: if all had been unanimous to attack him, in four years time we might have brought him to our terms. As to point of Trade, the French king has broken that stratagem. All, except ourselves, trade with him. We have had notice of this, and those ships that have been taken trading, have been discharged. What have your Allies done for you? Have not the French taken towns in sight of them?—At Sea, the last year, and not to come at him! This year you had a Fight, and he attacked you with half his ships; you beat him; and what fruit had you of this victory? His forts are strong, and there is no way but a descent upon him in his own country; and how that has been managed you have heard reported. After all, the Allies can do nothing for you, and trade with the French. What I am most afraid of is, that instead of a descent upon him, he will threaten a descent upon you. Whatever fleet is at sea, or forces abroad, they will do you no good; and the sea whatever army you have there, must follow the fate of the land; and there must be something to encourage the French king to make a descent. One is, the differences at home, and the methods by which we manage our business. We are unhappy to continue in parties, without being upon one bottom. I hope we may find some way to secure ourselves. It is said, 'The ministers serve you with the best of their skill.' You are the best judges of that; but as to treachery, no man is perfectly good, nor perfectly wicked. No man is so wicked as to bring in the French king; but your orders may be delayed, and intelligence sent him. None doubts but that he is designing a descent, and you are in the dark, and can judge of nothing but by the event: But the French king can take his measures; he knows who are treacherous to you. The last year you were like to have had a great loss by the Smyrna fleet being ordered to come to Ireland*; but, I observe the French fleet never came to sea till those orders went out. They sent word, 'that the French fleet was laid up, and therefore ours must be so.' We kept out, and lost many. Though the fleet, in pursuit, was not windbound, it was order-bound. I know not why they were not at liberty to pursue their victory. From unavoidable evidence, the hands you are in are not safe hands. That is, that the French king should draw so great an army on his coasts, and have transport-ships ready for his men, and

* Churchill had been sent to the Tower for this offence. See p. 443.

† This Vote, being in the Committee, is not entered in the Journal.

* See p. 657.

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we should have no notice, and not half forces enough left for our security; I desire you to consider, whether those who have suffered you to be so surprized, will not do it again. It is strange, that we should not know the strength of the French fleet, till we had fought them. We know that, from all parts of England, discontented persons flocked to London, with arms and horses seized, and not one man was discovered of the conspirators. Though we had very few forces left, yet there were great complaints of free-quarter, this summer, on members of yours, and no man punished for invading of property. They seize shipping to a great value, and no one man has had satisfaction. Another thing I shall mention; men discharged from imprisonment in Westminster-Hall, and afterwards guards put upon them. A great many instances might be given more, and I might fly higher to take off heads. But I move you to come to this Resolution, 'That the great affairs of the Government, for the time past, have been unsuccessfully managed; and that the king be moved, for the future, to employ men of known integrity and fidelity.

Sir *Wm. Strickland.* I cannot tell where it is we are wounded. I would not have the management in such hands for the future; but this cannot be while we have a Cabinet-Council.

Mr. *Waller.* 'Cabinet-Council' is not a word to be found in our Law-books. We knew it not before; we took it for a nick-name. Nothing can fall out more unhappily than to have a distinction made of the 'Cabinet' and 'Privy-Council.' It has had this effect in the country, and must have, that, in the country, the justices of the peace, and deputy-lieutenants, will be afraid to act: they will say, 'they cannot go on;' and why? Because several of them have been misrepresented, and are not willing to act; they know not who will stand by them; and are loth to make discoveries, unless seconded. If some of the Privy-Council must be trusted, and some not, to whom must any gentleman apply? Must he ask, 'Who is a Cabinet-Counsellor?' This creates mistrust in the people. I am sure, these distinctions of some being more trusted than others, have given great dissatisfaction. This is what I have met with this summer; and therefore I second the motion.

Sir *Rd. Temple.* All governments reduce their Council to a few: Holland does; and the French king to three.

Mr. *Waller.* We have reduced our Secretaries from two to one. The question proposed was, 'That the king be advised, that all matters of state be advised on in the Privy-Council; and that the management of them by a Cabal is dangerous.'

Sir *John Lowther.* I would willingly sit down, if I did not think the honour of the house, and our safety, concerned in the question. What will foreigners say to this? I have heard foreign ministers say, 'That it is better for their affairs in England than any where else, because once a year the parliament sits; and, without the charge of intelligence, they know all affairs. If you act by measures of no country, nor your own, what will ensue? Had you not a secret Committee in the Examination of sir Edmundbury Godfrey's Murder?* Of this Committee of Council I am one. I had rather be at home. Consider your own honour, and do what you please.

Mr. *Clarke.* I doubt whether this Advice is practicable, in the way it is laid down. It appears who had the management chiefly in the descent, and transportation of it from Ireland to the Thames, and all for that great undertaking.

Mr. *Waller.* If the government be betrayed, I doubt not but gentlemen will be so bold as to declare the persons that have done it. Impeachments have been in parliament against persons, for taking too much upon them. Two things plainly have been faulty; want of intelligence, and orders, to that which is our great safety, the Fleet. The unsuccessfulness of the fleet, last year, came from uncertainty of orders. We took our orders in a French ship, before we had them from our own. All has come from delay of orders, as if our descent should come to nothing. I am of this opinion, that the unsuccessfulness of the descent was for want of intelligence from the secretary, and those who issued out those orders.

Sir *Christ. Musgrave.* In due time, this may come before you. This debate is not properly before you now; for, after it was reported, it was not referred to your consideration; but properly in its place it may come before you. I shall only observe, that, as the question stands on your paper, nobody can give an affirmative or a negative to it.

Mr. *Goodwin Wharton.* Some, by the ill advices they gave king James, were a means to change his government; and the management of this government makes me think the same thing is doing now. The day the king made his Speech, before he spoke it, there was a Speech went about, that did burlesque it, head by head. You were told, by Foley, 'That he could not enumerate all,—for they were numerous.' I know it well, that the Gazette of the 10th of May told us, 'That the French were seen on our coast, but they stood off for France.' I did myself acquaint the queen, on the 14th of May, 'That the French were not gone out of the channel.' I believe the Cabinet Council were called, and ordered the Fleet to sail. All was in confusion as to the Descent. The enemy was upon you, before you knew of it. I saw a messenger, at the secretary's office, sit grumbling with another messenger, 'That it is your turn to go, and I will not go till I am paid for what I have done before.' This being so, how can your affairs go on with vigour? Things are to be done by proper judges of them. In king James's 1st's time, there was a Council of War in the Pala-

* See vol. iv. p. 1024.

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tinate business, and a Council of War in the Isle of Rhe Descent. Is it credible that men, brought up to books only, should understand armies and fleets? It is impossible that they should conduct what they understand not. The method of this cabinet is not the method nor the practice of England. As for private councils, all kings have their favourites; and I wish the king had such a secretary as Mazarine, to secure the interest of the nation, and not himself. The method is this; things are concerted in the Cabinet, and then brought to the council; such a thing resolved in the cabinet, and brought and put upon them, for their assent, without showing any of the reasons. That has not been the method of England. I am credibly informed, that it has been complained of in council, and not much backed there. If this method be, you will never know who gives advice. If you think it convenient, I shall be of your mind; but I think this method is not for the service of the nation.

Mr. *Foley.* I would have every counsellor set his hand to his assent, or dissent, to be distinguished.

Resolved, "That it is the opinion of this committee, that, many of the great Affairs of the Government having been for the time past, unsuccessfully managed by those that have had the direction thereof, under their majesties, their majesties be humbly addressed to prevent the like mischief for the future, by employing men of known integrity and ability."*

Debate on the Estimates for the Year 1693.] Nov. 25. Lord Falkland, by his majesty's command, presented to the house an Estimate of the Navy, for the year 1693, amounting to 33,010 men, and 2,077,216*l.* 10*s.* charge. And the earl of Ranelagh delivered a List of the Land-Forces, amounting to 8,130 horse, 2,480 dragoons, and 43,592 foot; in all 54,562 men; and their annual pay to 1,448,732*l.* 6*s.* 7*d.*

Sir *Christ. Musgrave.* I find the numbers of Men, and Charges, infinitely increased since the last year.† I think it is not fit that copies should go to Coffee-houses (as is said;) but let us go immediately into a committee, to consider of it. It is not possible for country-gentlemen to give an opinion till they have considered: pray let us have them lie upon the table, to understand them by short notes, and that we may have liberty to have recourse to the Papers, to consider of them.

Mr. *Montagu.* I understand not why the Papers should lie upon the table till Tuesday: you will not have opportunity to redress the inconvenience that so long a day will produce; you cannot be better informed than you are; therefore let the committee sit to-day.

Lord *Eland.* If we must give as much Money as we gave the last year, I hope gentlemen will not take it ill that we proceed in the same steps.

Col. *Cornwall.* Here are Troops put into the Estimate that were not last year in the world; therefore I move for Tuesday.

Earl of *Ranelagh.* That an imposition may not be made upon the house, I must tell you, it is the Estimate the king thinks fit for the next year. The king intends to augment lord Oxford's regiment, by adding more troops and more men.

Mr. *Palmes.* The question you are going to put is, to go on with the Supply; and on Tuesday to consider the Papers. But till we are well informed of the Estimate in the Papers, we cannot go on with the Supply. I believe every gentlemen is hasty to go on with the Supply. I remember that the last session, a great sum more came upon us after the Estimate was given in; therefore I move for Tuesday, &c.

Mr. *Foley.* It could not be expected that the State of the War, brought in but just now, could be considered so soon. The sum is greater than ever was asked in this house. You ought to allow gentlemen time to recollect what debates were last year, to make just exceptions against what is demanded; it will expedite your business the better.

Sir *Christ. Musgrave.* Are we reduced to such a condition, that two or three days time for consideration will ruin the nation? Why were not these Papers brought in sooner? Is it possible that we can be informed now? Would a man do this in his own private affairs?

Sir *Stephen Fox.* We have nothing to live on in the Treasury, but the borrowing Clause. We cannot borrow 1000*l.* more. We expected 200,000*l.* from the Chamber of London, and we have not received 60,000*l.* We have not subsistence for the Army, not for one day more; and, for the Army, it requires the utmost expedition. When the house will make some chearful Vote, we may for some weeks more go on. This day may go a great way towards the Navy.

The consideration of the Estimate and List was referred to a Grand Committee.

Debate on Colonel Churchill's Complaint of Breach of Privilege.] Nov. 26. Colonel *Churchill.* I received a summons to attend the Board of Admiralty last night. When I was called in, the lords examined me of what I said here, 'That some persons in the Fleet were cowards*.' I know not that I am to answer any where, for what I say here, but to the house. One of these members said, 'He wondered I should trifle with them; they had power to give me an oath.' I said, 'I would not take it, till I had the direction of the house;' and

* This being in the committee, is not mentioned in the journal.

† The above List exceeded the List given in the former session, by 2,598 men; and yet the Charge was less by 41,097*l.* 7*s.* 5*d.* by reason that the Danes and Dutch, in the former List, were all computed at English pay; but in this List, the three regiments of Danish horse, nine of Dutch horse, seven battalions of Danish foot, and three regiments of Dutch foot, were computed at Dutch pay. See the Journal.

* See p. 729.

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desired a member then present to take notice of it.

Colonel *Austen.* I was desired by your member to take notice, &c. I will tell you what it was. When Churchill appeared at the Admiralty, it was asked, on behalf of one Bremstead, 'Whether he knew he was a coward?' He said, 'He would not give an account out of the house, for what he had said in the house.' But the question was, 'Whether he had not said it in other places?' It was said, 'It was in the power of the Board to give him an oath;' but it was not insisted on at the Board. The case was this: the king was petitioned for a man's life, condemned to be shot to death for a coward. It was referred by the king to the Board. The end of enquiring of Churchill was, whether this man was fit to be pardoned; but there was not any question, as to what was said here.

Col. *Churchill.* I think that question was pressed upon oath. And that question was asked me, after I had refused, and I would not take an oath, till I had the direction of the house.

Sir *Edw. Seymour.* I hardly understand the accusation. They desire to know the reason, why, for their information, he accused this man for being a coward. I am as tender of privilege as any man, but I do not take this as a design to subvert your privilege.

Mr. *Foley.* As this is complained of, it is a great breach of the privilege of the house. Many members are officers, and if they must be called to account in another place, for what is done here, there is an end of privilege. They ask him of what was said in this house, and when he spoke of the privilege of the house, they told him of tendering an oath, and afterwards told him, he spoke it in another place; but not till he spoke of the privilege of the house.

Mr. *Hampden.* I do not see that your member was questioned for what he said in the house; but here was a person condemned for a coward, and application was made to the king for mercy to be shewn him, and they would inform themselves of the man. Evidence is desired from the greatest man of the kingdom, if it fall out to be a member. I do not see how privilege is concerned at all. Here is no subpœna, but desire of appearance.

Sir *Christ. Musgrave.* I speak to the method of proceeding. You have had an information from your member; I suppose it is upon your Paper; pray read it, and when it is stated, every gentleman may apply himself to it.

Colonel *Churchill.* I take it, I was examined as a member of parliament. I said, 'I was not obliged to answer, being words spoken in the house of commons, without their leave.' Sir John Lowther told me, 'They had power to give me an oath, if I trifled with them;' but I would not answer without leave of the house.

Sir *John Lowther,* (a Commissioner of the Admiralty.) The matter of fact, and the words are entirely denied. There was not a word of the house of commons, but of words said without doors; and he was not interrogated to any thing said in the house.

Mr. *Goodwin Wharton.* The matter is stated truly and rightly. As the information is made, the next thing is to consider, whether it be a breach of privilege; which you cannot do till the parties withdraw. If they had sent for him, a commander in the Fleet, either for matters said in or out of the house, they could not, without leave of the house. This concerns the privilege of the house and liberty of speech.

Lord *Falkland.* Here is a complaint; and, if you can, have indifferent persons to inform you the right state of the thing.

Sir *Christ. Musgrave.* I think no man ought to be interrogated of matters said in this house. It is said, the matter is not agreed. You having it upon your Paper, can tell how far the matter is not agreed.

Sir *John Lowther.* If the words be admitted, whither shall this privilege extend? Here is no suit, nor answering without doors what has been said within; where is the hurt of all this? It is only to be informed of a person.

Mr. *Clarke.* I hear some call for the Order of the day, but I think this matter is not to be so dismissed. I will conclude all to be true, if the objections are not answered.

Col. *Churchill.* I do declare, that, if the house please to pass it by, I do.

Col. *Austen.* From the beginning, I told him, 'He was not sent for, for words said in the house.' I do not say the word 'trifling,' was not said, but I must affirm I heard nothing of it; he will do me that right. I was a bystander, and said nothing.

Col. *Churchill.* The telling of the man's life condemned, &c. was the latter end of the discourse, not the beginning. Till after my refusal of the oath, they spoke nothing; I said 'I would have nothing to do with the blood of the man.'

Sir *Robert Rich.* We had no scruple to ask him what was said out of the house. It is true, he said the words in the house, but having said the words out of the house, we thought we might interrogate him of them. We have traced the office, and out of the office, and can find nothing of him. There was hardly any ship had more men killed and wounded in it than his ship; but if it could be proved that he was a coward, he must die; and I hope the house will permit us to search into this, to inform the king of it.

Sir *Christ. Musgrave.* I think you should declare, 'That no Member be examined for what he has said here.' Neither must it go for doctrine that a man may declare without doors what has been said here, and the intention of the thing must not alter the thing.

Col. *Titus.* Do you think that this is a new privilege? This is calling that in question, that was ever out of question.

The *Speaker.* It had been a civil thing, and a reasonable thing, for the admiralty to have told Churchill, 'They had no intent to interro-

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gate him as to any thing said in the house.'—This matter passed over without any vote.*

Further Debate on the Bill for regulating Trials in Cases of Treason.] The house went into a grand committee, on the Bill for regulating Trials in cases of Treason.

Sir *Thomas Clarges.* This is a necessary bill for preservation of the government, and the king's person. The hardships the nation endured in constructive Treason was one of the greatest motives and inducements to the late change; and, amongst other things, the regulation of Trials for Treason was one of the Heads presented to the king to be redressed. At Henry 4th's coming to the crown, there was a revolution as strange and extraordinary as this. The first he made was reducing the Trials for Treason to the 25th of Edw. 3. Why? To let the people see, they were secure in their lives and estates. Since the king came to the government, it has been set out in several Acts how Judgment of Treason was perverted. Our public faith to the nation was engaged in such a Bill as this. This is the way to reconcile all people. This is only as much as to say; corruptions were in the Judges, and you will not remedy that: before the 25th Edw. 3, Common-Law Treasons were so numerous, that nobody could tell what to do; and that of the 25th Edw. 3 was made, because there were so many constructions then, and now so lately. I know not how much wiser we are now than we were the last session, when this passed here, and the lords put a clog upon it. This is the means to quiet men's spirits.

Sir *Edw. Hussey.* To fill up the blank, 'That the Bill shall not commence till the end of the French war,' is, nobody knows when. We have heard lately of a Plot,† but whether a plot or no plot, we know not. I would fill up the blank, 'for the Bill to commence in Jan. 1693, or 1694.' If by that time the government be not settled, it will not be at all.

Sir *Henry Goodrick.* I have heard it said, and without contradiction, 'That king James's friends are plotting.' If this king had not extraordinarily stopped his hands, he had made many examples. No doubt there was a Plot; many horse officers came to town—Your safety is already shaken, and I hope you will consider the king's safety so far as not to let this Bill commence before the end of the French war.

Mr. Solicitor *Trevor.* I offer, that the filling up of the blank may be, 'From the end of the French War:' and what moves me to it is, that from thence the danger of the government proceeds: and to prevent the great danger, and not go upon an imaginary danger. Whether is the greater danger, from your enemies, or an imaginary one of injustice from Westminster-Hall? It is said by Clarges, 'He wonders we are grown wiser this session than the last.' Nobody thinks the French made that attempt, but from encouragement here. I hope, by what we have learned since last session, we shall be more considerate now. The danger from Westminster-Hall is, when Parliaments are not frequent; it is impossible, in these circumstances of war we are in, that parliaments should not meet. This is enough to satisfy me, that the danger is not from hence; and I move, 'That this Bill may commence from the time the French War shall be ended.'

Mr. *Harley.* I suppose it out of doubt, that we are in danger of our enemies; will putting off this bill secure you? The best way to secure the government is to set men at ease. Possibly the king, in his Speech, may have particularly pointed out this Bill, because the only public bill that slipped the last session. I join in the motion, 'That it commence in January next.'

Mr. *Finch,* You have been moved to fill up the blank 'To commence from and after the expiration of the French War.' When I consider the motion, I admire: it is a good reason why the Bill should never take place. We are told of Plots and Conspiracies, and that the bill should not pass now, because of them. The meaning of that must be supposed, that it is very difficult to bring a guilty man to punishment. If so, I would not have the bill commence after the war, but never. Therefore, I cannot but wonder, that, because of Plots, the Bill should not commence till after the war, therefore pray let it never commence at all! But this begs the question, whether this bill brings difficulty upon the government? Consider, it has once passed the house, been examined, and laid open, and then it was thought requisite. But you are told, 'There is no danger of misconstruction of Treason whilst parliaments are sitting, and so they will be during the War.' I have heard in this house of misconstruction of Treason, judged by the very present Judges. If such misconstructions have been, they are very ancient, and still used. The matter of this Bill provides no more, than that an innocent man may have opportunity to make his innocence appear. How often has it been said, that denial of a Copy of the Indictment to the prisoner is against law, and Records shewed to verify that? All the Judges before denied copies of Indictments; so they do still. That was one thing laid as a hardship upon criminal proceedings before. Is this a hindrance of justice? I do solemnly protest, that if any man will show that one part of the bill acquits a guilty man, I will be against that part, but till then I must not take it for granted, that it is a bill to cover criminals. Therefore I concur with the motion 'To commence January 25.'

Sir *Christ. Musgrave.* As this Clause is arraigned, I think every man should declare it not to be a protection to guilty men. In the beginning of the Convention, this was thought necessary; but now it is thought to hinder bringing criminals to justice. You are told by the Solicitor-General, 'There are no apprehensions of the judges, because of the frequency

* This debate is not mentioned in the Journal.

† See page 739, note.

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of parliaments.' But if the matter desired be reasonable, we ought to keep it out of the power of the Judges. I have known Judges make juries go out three times upon *ignoramus*. We find very forward witnesses of late; one now in Newgate, parson Young*, who accused the bishop of Rochester of Treason: is it not prudent to prevent such practices? If he had succeeded, the persons must have died. I cannot imagine why the government should be weakened, because a copy of the Indictment must be given the prisoners. At the free Conference, the last session, I heard a great man say, 'This Bill was not a new law, but a declarative law, and not enacting a new law.' Why should we not rectify that which the Judges say is no law? Therefore I move 'That this may commence Jan. 25th next.'

Sir *John Lowther*. It has been said, 'That a great many have been committed for Treason, and not prosecuted.' For that very reason, I am against that part of the bill. They are not only enemies, by their own confession, and we cannot prosecute them now, and yet we must have this bill to make prosecution more difficult. Were you a settled government, this bill would be more proper than now. If they think this bill will be a protection, though but imaginary, and not real, it will be an encouragement to designs against the government. There may be a reason for this bill, but now this looks like lessening the prerogative, as is said, but properly it lessens your strength of government. If liberty go beyond its bounds, it is no more so, but licence. As the law now stands, it cannot touch such offenders, therefore I would not weaken it more by this bill.

Sir *Tho. Clarges*. This bill must be passed, in the result, by the king, and nobody else. I am afraid the king is informed that this Bill is prejudicial to his security; but it was the Advice of the last parliament, that, for the security of the king, such a bill was necessary; and as the law stands now, witnesses for the prisoners are on their words, and not their oaths; this bill is, that they should not extravagantly say what they will. I think this bill therefore is for the king's safety.

Mr. Comptroller *Wharton*. I am one of those that have always been for such a bill, and shall ever be. I cannot think people too easy upon their Trials. I am of opinion that those gentlemen would not alter the law during the war, nor the practice of it. There are such jealousies and such cases, that I fear it impossible to answer, when people own not the government; and one is, that the king has no right to the crown, and therefore we cannot alter the law: But unless something be done to this purpose, when our eyes are open, and in a little more security, not to commence till the end of the War; then you may have this law to posterity. We shall have peace, or else not be a nation. Let it be as easy to hang a great man, as it was to hang lord Russel. I would pass the Bill for posterity, and till up the blank, 'Not to commence till the end of the War.'

Col. *Granville*. I shall never countenance any thing against the government. I came into the Change as early as any body to the government, and will be the last that shall go out of it. I wonder that gentlemen of the Privy-Council, should complain of men riding armed, and that they are not laid by the heels; but to tell you, that such a bill should pass, and no certain time limited when it should commence, is a contradiction. But the best time to have this bill, is when we can get it. Now we have a good prince on the throne, and no more seasonable time than now. The Judges tell you, 'One witness, with circumstances, is sufficient to convict a man of Treason;' but to let men come out of prison, after having been long detained, and nothing against them; and since there have been practices of forging hands, as in the bishop of Rochester's case, it is very seasonable to have such a Bill.

Sir *John Lowther*. Without a special commission of Oyer and Terminer, it is impossible to bring these men to Trial.

Mr. *Finch*. You have been to, who are for and who against this bill without doors; those I would regard. It is said, 'Those who have not taken the Oaths to the government, are for this bill.' I did, and am for it. The

* "This Robert Young being committed to Newgate, till he discharged a Fine imposed upon him, one Pearson, a prisoner in the same place for debt, perceiving Young to be very expert in counterfeiting hands, told him, 'That if he could contrive a Plot, and father it upon the earls of Marlborough and Salisbury, Dr. Thomas Sprat, bishop of Rochester, and some others, he might soon have money enough to pay his Fine.' Young gladly accepted the proposal, but told Pearson, 'That nothing could be done in that matter, till he was released:' which, in a short time, was effected by a certain stratagem. Young happened to procure the earl of Marlborough's hand, which he counterfeited so exactly, that it was very difficult to distinguish the true from the false. Afterwards he drew up an Association, and affixed to it the hands of the earls of Marlborough and Salisbury, as also sir Basil Firebrace, the bishop of Rochester, and lord Cornbury's, which two last were written by another hand. One Blockhead went three times to the bishop of Rochester's house at Bromley in Kent, with a fictitious errand from a supposed Dr. of Divinity, but with no other intention than to convey the forged Association into a secret place, where it was afterwards found by the king's messenger, who, upon information given by Young against that prelate, came first to secure his person, and then to search his house. His lordship was for some days under confinement; but upon a strict examination of the whole matter before the Council, and the confronting of Blackhead with Young, the Forgery was evidently discovered, and his lordship's innocence made manifest." Tindal.

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objection against it is; 'Make not prosecution of Treason more difficult now, than in former reigns.' A great man was named: (I can easily guess why.) Was that great man prosecuted illegally, and therefore pray continue it so? These very Judges have resolved the same point of law. That which makes truth appear, (which is the design of this Bill) makes it impossible that a guilty man should escape. I find eyes were upon me, when the things were stirred, urging a point of law, in lord Delamere's Trial, 'That one witness with circumstances, and violent circumstances, was sufficient.' I say so now. If there be any fault in it, it is what all nations concur in. It is said, 'That men ride armed, and declare the king has no right to the crown, and are for king James.' I attended the answer, and it was said, 'There was no good proof.' If proof, why are not these men punished? It is said, 'That men can point out, who are for, and who against the government.' It is a hard circumstance for men to be pointed out, to be slandered by the eye, and to expose them to the fury of the rabble. If circumstances be strong against a man, he ought to be brought to trial. The Judges have judged, 'That one witness, with pregnant circumstances, is proof against a man;' and they having so judged, it is time for the parliament to declare what are pregnant circumstances. I think this is no hardship upon the government, and therefore I am for it. I think no Englishman can be safe, if the king be not safe upon the Throne; and the establishment of him there is the security of every Englishman, and this Bill does do it, and it is no hardship upon the government, only without it it is impossible for an innocent man to make his innocence appear.

Mr. Comptroller *Wharton.* I think that the Privy-Council are not in fault. I have an ill opinion of some, but no proof against them.—The report was ordered to be made on Thursday.

Question for Conference passed in the Negative.] Dec. 7. The house of lords having been in a committee of the whole house in order to the giving Advice to his majesty, and considering the Papers brought in by the earl of Nottingham; and being resumed, the question was put, Whether this house shall now send to the house of commons for a Conference, and to propose to them, that a Committee of both houses should be appointed to consider of the present State of the Nation, and what Advice to give his majesty upon it? It was resolved in the negative: Contents 36, Not contents 48.

Protest thereon.] Leave having been asked and given, that some lords might protest, if the above-said question was carried in the negative, these lords whose names are underwritten do enter their Protestation in the Reasons following:—"1. Because his majesty, having particularly and expressly desired the Advice of his parliament at this time, when he so much seems to need it, no other method was, or, in our opinions, could be proposed, by which the two houses might so well and so speedily be brought to that concurrence, which is necessary to render their Advice effectual. 2. Because it appears by some Papers already imparted to this house, that several members of the house of commons are concerned in the matters before us, as having been so lately employed in his majesty's service; and we conceive it the easiest, properest and fairest way of communication between the two houses, to have so great and important a business transacted and prepared in a committee so chosen. 3. Because it cannot be expected, that so many members of the house of commons, from whom we shall need information, can, in any other manner, be here present so often, though with the leave of their house, as will be necessary for a sufficient enquiry into the several affairs now under consideration. 4. Because if the house of commons intend also to give Advice to his majesty, it is very probable that both houses may receive such information severally, as will be thought fit to be communicated as soon as possible; and we conceive no way of doing that can be so proper or speedy as in a committee of both houses. 5. Because in a time of such imminent danger to the nation, by reason of so many Miscarriages as are supposed generally to be committed, the closest and strictest union of both houses is absolutely necessary to redeem us from all that ruin, which, we have too much cause to fear, is coming upon us. (Signed) Shrewsbury, Stamford, Monmouth, Crewe, Torrington, Granville, Marlborough, Aylesbury, Cholmondeley, Mulgrave, Cornwallis, Vaughan, De Longueville, Montagu, Bath, Macclesfield, Warrington, Fitzwalter.*"

* "Their lordships, as we have seen, had resolved to advise as well as the commons. They set out with a supposition, that the king had asked their Advice; whereas, he had only dropped the word by the way, in hopes that nobody would think it worth picking up; and they were disposed to give him, if not more than he wanted, more than he would use. It was, however, the 28th of Nov. before they could agree on the first Head; and then, as well in compliment to lord Marlborough, as to attack the court in its weakest place, they opened their batteries against the foreign interest, by resolving to advise his majesty, to employ one of his English subjects to be the commander in chief of his English forces. It was yet many days longer before they could agree on their next step; and in that interval it occurred to some of those who were most in earnest, and who best knew how infinitely difficult it was, to carry so vast and perplexed a business through all the forms of a numerous assembly, not only against the inclination, but the fundamental interests of the court, that, as each house were on the same quest, if they could so contrive it, as to procure the management to be vested in a joint committee of both, armed with proper powers and authorities, they should proceed with more ease, on surer grounds, and with

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Debate on Admiral Russell's Orders, &c.] At the debates which follow, the compiler, Mr. Anchitell Grey was not present, but they were sent him down by friends into the country.* Mr. Wilmot, the other member for Derby, in a letter dated December 20,† says,

"This is to acquaint you, that the lords this day desired a Conference, when they delivered over to us an abstract of all Letters and Orders betwixt the queen and lord Nottingham to admiral Russel, and those from him to them, the abbreviation made by the lords, but the letters, or copies, to justify and vouch the same, were also delivered. The abbreviation was made, Mr. Russel taking notes all the while, after which he answered, and explained all things very well, in my judgment, and would have been so, I believe, in yours. Indeed, resolved enemies could not but acquit him, as hereafter followed. I was near, and attentive, and did not find any more considerable than what was in the papers delivered to us by Mr. Russel himself. The abbreviation only was read, and not the vouchers at large, but Mr. Russel's friends thought the house was ripe for judgment by the abbreviation being read first. —Mr. Comptroller Wharton made some speech in commendation of the admiral and his services, but more large in reflection on lord Nottingham, and concluded with a motion 'to address the king to remove him.' This was seconded by sir John Morton. Then Mr. Smith: "The admiral having been thanked by the house for his services, and having been reflected on, or endeavoured to be so, in the house of lords, and all the papers transmitted us, my motion is, 'That it is for the purpose, to have our judgments thereon, and that we should declare, that he has, in the last summer's expedition, at sea, behaved himself with courage, conduct, and fidelity.'" This was seconded by Mr. Palmes, sir Robert Howard, and Mr. Solicitor General Trevor.—Sir John Lowther said, 'I acknowledge as much the service of the Admiral as any, and profess myself ready to join in any vote, either to be clear or grateful to the admiral, but withal, I can no way yield to the motion of the Comptroller; for, of my knowledge, no man, with greater zeal, pains, or fidelity, I believe, can serve the government than lord Nottingham. I move therefore, 'Not to be jealous of one another, but to let the papers lie upon the table.'—But he was not seconded thereon. Many spoke to the motion of Mr. Smith, and more against it; till the question being about to be put, sir Chris. Musgrave said, 'It is improper yet to make any judgment, the vouchers not being read.'—This was seconded by Mr. Bickerstaffe, Mr. Peregrine Bertie, and Mr. Dalton, and, I think, none else. At last the question moved by Mr. Smith being put, passed nem. con. not much against the grain. I should have told you, that Mr. Finch, with all respect and acknowledgement first paid to the Admiral, reflected what he could, in his fine way, upon him, but it was the Letters of Mr. Russel that made reflection upon him, if any were; and in answer to the Solicitor's speech, who said, 'He was by sly insinuation reflected on,' concluded with Musgrave's motion. After the question carried nem. con. Mr. Russel stood up, and said, 'I am happy in having such a judge and jury as the house of commons, and will never desire any other, but will thereto submit all my actions.' He afterwards said, 'It has been very difficult and uneasy to me to serve in these two Summers Expeditions, where, besides the great charge of my place, I was obliged not to tread awry, for fear of the ministers, which was to me a great discouragement, and would be to any man who shall command in my post, which I expected not to do.' He then reflected more on the earl of Nottingham; full enough. But the house took no farther notice at this time; but the Order was 'To make Report of the first Conference.'

And it was resolved, "That admiral Russel, in his command of the Fleet during the last Summer's Expedition, has behaved himself with fidelity, courage, and conduct." This Vote was ordered to be delivered to the lords at a Conference.

Bill touching free and impartial Proceedings in Parliament.] Dec. 22. A bill passed the commons entitled, 'An Act touching free and

more certainty of success. Accordingly, this notion of theirs was communicated to the rest, who warmly espoused it; and on the 7th of Dec. it was moved for in the house, and supported with all the arguments, adorned with all the eloquence, and animated with all the spirit of the party; against which the court opposed their whole phalanx, that is to say, all the lords of the Cabinet, except the lord steward Devonshire, all those other lords, whose consciences were under the dominion of their Places and Pensions, and all the bishops present, except Watson, bishop of St. David's. These altogether made up 48, whereas the others were but 36. And thus, after a long debate, the courtiers became masters of the field of battle; while the vanquished covered their retreat with a thundering Protest; which was signed in the first place by lord Shrewsbury, &c. of whom above three fourths were eminent Revolutioners; which deserves so much the more notice, because bishop Burnet, speaking of this proposition of theirs, is pleased to say, That it was what had never been offered, but when the nation was ready to break out into civil wars; and, that if it had once been admitted, it would have grown in a short time into a Council of State, which would soon have brought all affairs under their inspection." Ralph.

* About this time, Mr. John Hampden published a remarkable pamphlet, entitled "Some short Considerations concerning the State of the Nation," a copy of which will be found in the Appendix, No. VII.

† It appears by the Journal, that Mr. Anchitell Grey had leave to go into the country for the recovery of his health, Dec. 16.

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impartial Proceedings in Parliament*.' The said bill was brought in by sir Edward Hussey. In the course of its progress through the house, sir Charles Sedley made the following speeches thereon:

Sir *Charles Sedley*.† "We shall, I hope, return to our Vote, and make provision by a Bill, that no Member of Parliament may be concerned in the Revenue: For it sounds, Mr. Speaker, harsh, that the same men should be both givers and receivers of the Revenue. The worthy gentleman, that spoke last, tells you we can expect nothing toward this Supply from the Revenue, for that the ordinary Revenue will not pay the Civil List by 100,000*l.* I suppose he means the Civil List as it stands now. But there was not long ago an offer made by the courtiers, that the profits, fees and salaries of their respective offices and places exceeding 800*l.* per annum clear money, should go toward the Charge of the war; and then I hope we may expect something. Sir Harry Vane did a thing of this kind in Cromwell's time, being then Treasurer of the Navy, he acquainted the house, that the profits of his office were too great, for any particular person, during such distress and calamity of the commonwealth, and desired he might have a convenient salary, and the rest go toward the charge of the War. Now to find a whole set of courtiers as generous as I had ever yet known any one man, charmed me exceedingly; I think I broke into some raptures of kindness towards the worthy gentlemen, who shewed such zeal for their master's service, and the defence of the nation, as to part with something of their own, as well as ours, for those public ends.—Mr. Speaker, the king and people have always the same interest, and it is not the king's to take one penny more from the people than will just carry on the government; it is the people's interest to give him full as much: but it is the courtier's interest to get all they can for him here, that they may obtain their request the more easily at Whitehall: That the interest of the king and courtier do sometimes differ, I think I can give you an undeniable instance: king Charles 2, when he came to the crown, had 360,000*l.* per annum in land; it was certainly the interest of the crown he should have kept those lands descending to him from his ancestors, that they might have been a constant support and supply for such occasions as could not wait the delays and method of parliaments; it was the people's interest that the king should have kept that revenue, for having so much of his own, he might lie the less heavy upon them: Yet the courtiers prevailed, and got away that whole

* "The same unwarrantable inclination to extenuate and disculpate those in power, appears yet farther, when he (bishop Burnet) comes to speak of the Place Bill (to make use of a more modern phrase) which the malcontents, this session, brought into the house of commons: for, after having allowed, that the majority of that house were under a corrupt influence, after having expressly declared, that the Speaker himself was the factor between the court and the members in that corruption, and after acknowledging, that he had made his complaint of it to the king in person, who justified it from the necessity of his affairs and the depravity of the times, and, notwithstanding the concessions he makes, as he goes along, he speaks of that measure in these words: "When the party, that was set against the court, saw they could carry nothing in either house, then they turned their whole strength against the present parliament, to force a dissolution: and in order to that, they first loaded it with a name of an ill sound: and, whereas king Charles's Long Parliament was called the 'Pensioner Parliament,' they called this the 'Officer's Parliament,' because many that had commands in the army were of it: and the word that they gave out among the people, was, that we were to be governed by a 'Standing Army' and a 'Standing Parliament.' They tried to carry a Bill, that rendered all Members of the house of commons incapable of Places of Trust or Profit; so that every member that accepted a place, should be expelled the house, and be incapable of being chosen again to sit in the current parliament. The truth was, it came to be observed, that some got credit by exposing the government: and that to silence them they were preferred; and then they changed their note, and were as ready to flatter, as before to find fault. This gave a specious colour to those who charged the court with designs of corrupting members, or at least of stopping their mouths by Places and Pensions. When this Bill (continues his lordship) was set on, it went through the house of commons with little or no difficulty: those who were in places, had not strength and credit to make great opposition to it, they being the persons concerned, and looked on as parties: and those who had no places, had not the courage to oppose it; for in them it would have looked as an art to recommend themselves to one. So the Bill passed in the commons; but it was rejected by the lords, since it seemed to establish an opposition between the crown and the people, as if those who were employed by the one, could not be trusted by the other."—This is his lordship's whole account of that matter, but not all that ought to be said concerning it. It was called, 'A Bill touching free and impartial Proceedings in Parliaments;' it was brought into the house of commons by sir Edward Hussey, one of the members for Lincoln; and it was founded on the Votes of the old Whigs in that house, during the reign of Charles 2, when a corrupt influence in parliament began first to be felt, and when the fatal effects of it seemed to be really apprehended: so much tenderness was, however, shewn to the present members, that it was not to be in force till his majesty thought fit to call a new Parliament." Ralph.

† Sedley's Works, vol. ii.

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revenue in a few years, devouring not only the income but the very stock of their master's liberality; and, as I humbly conceive, contrary to the interest of both king and people, and even of all succeeding courtiers; whom we find since quartered upon other branches of the revenue. King James thought 500*l.* per annum sufficient for the gentlemen of his bed-chamber; certainly that salary may suffice a man that has an estate of his own already, and is as much as any waiting man can pretend to for his service."

Sir *Charles Sedley**. "I believe, Mr. Speaker, when we come to consider of it, we shall find that it is convenient, not only to lessen the Officers of the Court, and State, in point of profit, but in point of number too; we have nine Commissioners of Excise, seven of the Admiralty, three of the Post-Office, six of the Customs; I know not why half may not do the business as well. But when I consider all these, or most of them, are Members of Parliament, my wonder is over; for though it may be a dispute, whether many heads are better than one, it is certainly true, that many Votes are better than one: many of these gentlemen have two offices besides their seat in parliament, which require attendance in several places, and abilities of divers natures; but members of parliament, though well principled, have no privileges to be fit for any thing without practice, study, or application.—Sir, we are called by the king, and sent up by the people, and ought to regard no interests but theirs; which, as I told you before, are always the same; let us therefore proceed accordingly. The late proposals of the courtiers themselves, to save the king Money, was, by applying the profits, salaries and fees of their places, that exceed 800*l.* per annum, to the War; thus will the public charge lie easier upon the people, and the present reign be more and more endeared to them. What is necessary we shall chearfully supply, when we see all men set their shoulders to the burden, and stand upon an equal footing for our common defence, and that what we give, is applied to those uses for which we give, and the Army paid. This offer, sir, as I remember, began when an observation was made by you of the long Accounts, and that a great part of the king's Revenue remained in the hands of the Receivers; to which a worthy member answered, It could not be helped, by reason some Receivers were members of parliament, and stood upon their privileges. To which another member answered, That we could not deprive members of their privilege, but that to remedy the like for the future, we were ready to pass a Vote, that no Member of Parliament should be a Receiver of the king's Revenue. This alarmed the whole body of men in office; so that some stood up, and (to prevent the house from harping any longer upon that string) said, They so little valued their own profit, that they were willing to resign all their fees, salaries, and perquisites, exceeding 300*l.* per annum, toward the next year's Charge. This, if really intended, was very generous; but if it were only a compliment, shift or expedient, to avoid the present Vote we were upon, That no Member of Parliament should be Receiver of the Revenue, nothing was more disingenuous; nor could a greater abuse be offered to the house, for we proceeded so far as to vote, That Judges and some others should not be comprehended. People abroad that received our Votes will think strangely of it, if, after all those preparations, we do nothing in it, and suffer ourselves to be thus gulled: but I hope better of the worthy gentlemen, and cannot but think they were in earnest with this house upon so solemn a debate."

The Earl of Mulgrave's Speech thereon]. Dec. 22. The bill touching free and impartial Proceedings in Parliament, was sent up from the commons, in which several persons in Employments both military and civil, were incapacitated to sit in the house of commons, which caused it to be very much opposed by the lords that stood up for the court; though on the other hand, several peers spoke vehemently for it, and among the rest the earl of Mulgrave; who upon this occasion made the following memorable speech:

"My lords; This debate is of so great consequence that I resolved to be silent, and rather to be advised by the ability of others, than to shew my own want of it; besides it is of so nice a nature, that I, who speak always unpremeditately, apprehend extremely saying any thing which may be thought the least reflecting; though even that ought not to restrain a man here from doing one's duty to the public, in a business where it seems to be so highly concerned. I have always heard, I have always read, that foreign nations, and all this part of the world, have admired and envied the Constitution of this government. For, not to speak of the king's power, here is a house of lords to advise him on all important occasions, about peace or war, about all things that may concern the nation, the care of which is very much entrusted to your lordships. But yet, because your lordships cannot be so conversant with the generality of the people, nor so constantly in the country as is necessary for that purpose, here is a house of commons also chosen by the very people themselves newly come from among them, or should be so, to represent all their Grievances, to express the true mind of the nation, and to dispose of their Money, at least so far as to begin all bills of that nature; and, if I am not mistaken, the very writ for elections sent down to the sheriffs does empower them to chuse; What? Their Representatives.—Now, my lords, I beseech you to consider the meaning of that word, Representatives; Is it to do any thing contrary to their mind? It would be absurd to propose it: And yet how can it be otherwise, if they, after being chosen, change their dependency, engage themselves in employments plainly inconsistent with the great trust reposed in them? And that I will

* Sedley's Works, vol. ii.

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take the liberty to demonstrate to your lordships they now do, at least according to my humble opinion. I will instance first in the least and lowest incapacity, they must be under, who so take employments.—Your lordships know but too well what a general carelessness there appears, every day more and more, in the public business; if so, how is it likely that men should be as diligent in their duty in parliament as that business requires, where Employments and a great deal of other business shall take up both their minds and their time.—But then in some cases it is worse, as in Commands of the Army, and other employments of that kind, when they must have a divided duty: for it does admirably become an officer to sit voting away Money in the house of commons, while his soldiers are perhaps taking it away at their quarters, for want of his presence to restrain them, and of better discipline among them; nay, perhaps his troop or regiment may be in some action abroad, and he must either have the shame of being absent from them at such a time, or from that house where he is entrusted with our liberties. To this I have heard but one objection by a noble lord, that if this Act should pass, the king is not allowed to make a captain a colonel, without disabling him to sit in parliament. Truly, if a captain has only deserved to be advanced for exposing himself in parliament, I think the nation would have no great loss in the king's letting alone such a preferment.—But, my lords, there is another sort of Incapacity yet worse than this, I mean that of parliament men's having such places in the Exchequer, as the very profit of them depends on the Money given to the king in parliament. Would any of your lordships send and entrust a man to make a bargain for you, whose very interest shall be to make you give as much as he can possibly? It puts me in mind of a Farce, where an actor holds a dialogue with himself, speaking first in one tone, and then answering himself in another.—Really, my lords, this is no Farce, for it is no laughing matter to undo a nation: but it is altogether as unnatural for a member of parliament to ask first in the king's name for such a sort of Supply, give an Account from him how much is needful towards the paying such an Army, or such a Fleet, and then immediately give by his ready Vote what he had before asked by his master's order.—Besides, my lords, there is such a necessity now for long sessions of parliaments; and the very privileges belonging to members are of so great extent, that it would be a little hard and unequal to other gentlemen that they should have all the places also.—All the Objections that have been made may be reduced to these: First, It is told us, that it is a disrespect to the king, that his servants or officers should be excluded.—To this, I desire it may be considered, that it is in this case, as when a tenant sends up any body to treat for him: would any of your lordships think it a disrespect; nay, would the king himself think it any, if the tenant would not only refer himself to one of your own servants, or the king's commissioners in the case of the crown? And if he chuses rather some plain, honest friend of his own to supply his absence here, will any man blame such a proceeding, or think it unmannerly?—Besides, your lordships know even this Act admits them to be chosen, notwithstanding their Employments, provided the electors know it first, and are not deceived in their choice. All we would prevent is, that a good rich corporation should not chuse to entrust with all their liberties a plain honest country neighbour, and find him within six months changed into a preferred, cunning courtier; who shall tye them to their choice, though he is no more the same man, than if he were turned papist, which by the law, as it stands already, puts an incapacity upon him.—Another Objection is, that this Act may by its consequence prolong this parliament, which they allow would be a very great grievance, and yet suppose the king capable of putting it upon us, which I have too much respect for him to admit of; though I am glad however, that it is objected by privy-counsellors in favour, who consequently, I hope, will never advise a thing which they now exclaim at as so great grievance.—But pray, my lords, what should tempt the king to so ill a policy? Can he fear a freedom of choice in the people, to whose good will he owes all his power, which these lords suppose he may use to their prejudice.—And therefore give me leave to say, as I must not suspect him of so ill a design as the perpetuating this parliament, so he cannot, he ought not to suspect a nation so entirely, I was going to say, so fondly devoted to him.—My lords, no man is readier than myself to allow that we owe the crown all submission as to the time of calling parliaments according to law, and appointing also where they shall sit. But, with reverence be it spoken, the king owes the nation entire freedom in chusing their representatives; and it is no less his duty, than it is his true interest, that such a fair and just proceeding should be used towards us.—Consider, my lords, of what mighty consequence it may be, that so many Votes should be free, when upon one single one may depend the whole security or loss of this nation. By one single vote such things may happen, that I almost tremble to think: by one single vote a General Excise may be granted, and then we are all lost: by one single vote the crown may be empowered to name all the Commissioners for raising the Taxes, and then surely we should be in a fair way towards it.—Nay, whatever has happened may again be apprehended: and I hope those reverend prelates will reflect, that if they grow once obnoxious to a prevalent party, one single voice may be as dangerous to that Bench, as a general dissatisfaction among the people proved to be once in a late experience; which I am far from saying by way of threatening, but only by way of caution.—My lords, we may think because this concerns not

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the house of lords, that we need not be so over careful of the matter: but there are noblemen in France, at least such as were so before they were enslaved, who, that they might domineer over others, and serve a present turn perhaps, let all things alone so long till the people were quite mastered, and the nobility themselves too, to bear them company.—So that I never met a Frenchman, even of the greatest rank, (and some had 10,000 pistoles a year in Employments) that did not envy us here for our freedom, from that slavery which they groan under; and this I have observed universally, excepting just M. de Louvoy, M. Colbert, or such people, because they were the ministers themselves who occasioned these complaints, and thrived by the oppression of others.—My lords, this country of ours is very apt to be provoked: we have had a late experience of it: and though there is no wise man but would bear a great deal rather than make a bustle, yet really the people think otherwise, and, at any time, would change a present uneasiness for any other condition, though a worse; we have known it so too often, and sometimes repented it too late. —Let them not have this new provocation, in being debarred from a security in their Representatives; for malicious people will not fail to infuse into their minds, that all those vast sums, which have been, and still must be raised towards this War, are not disposed away in so fair a manner as ought to be: and I am afraid they will say, their money is not given but taken. —However, whatever success this Bill may have, there must needs come some good effect of it: for if it passes, it will give us security; if it be obstructed, it will give us warning:"

Protest thereon.] The courtiers however being numerous, (Contents 42, Proxies 3. Not-contents 40, Proxies 7; Majority 2.*) the other party took an occasion from an objection they made (to wit, that this Act might by its consequence prolong this Parliament, which they allowed would be a very great Grievance) to bring in and pass another Bill, for the frequent calling and meeting of parliaments: which they sent down to the commons, Jan. the 21st, for their concurrence. But the king having no mind to part with this parliament so long as the War lasted, refused his Assent to this Bill, although the lords had agreed to the Amendments made to it by the commons. We must not, however, forget that Jan. the 3d, when the Negative was put on the first of those Bills, the dissenting lords entered the following Protest:

" Because the principal Objection made to this Bill was the great danger that might happen thereby, of the too long continuing this present Parliament, which is an ill consequence that we can no ways apprehend, since we hope and humbly conceive, his majesty will never be capable of taking any advice of that kind, so plainly destructive to the subjects just rights of election to frequent parliaments, and so many ways inconsistent with the good of this nation. 2. Because we are not only very sensible of the just occasion given for such an Act (though we are loath to enlarge upon so tender a subject), but have good reason to believe the house of commons would not have begun and passed a Bill of this nature, wherein the members of that house are so particularly concerned, without having been fully satisfied in the reasons for it, and plainly convinced of that great need the people of England are in, at this time, of so just and wise a Provision. (Signed). Warrington, Thanet, De Longueville, Weymouth, Montagu, Denbigh, Fitzwalter, Cumberland, Rivers, Vaughan, Sandwich, Clifforde, Stamford, J. Arundell, Mulgrave, Marlborough, Cholmondeley, Carnarvon, Aylesbury, Ashburnham."

*Debate on advising the King respecting the Admiralty.**] Jan. 10. Sir F. Winnington reported the several Resolutions agreed to by the Committee, To the first Resolve, viz. "That the king be advised to constitute an Admiralty of persons of known experience in Maritime Affairs, &c." many spoke in behalf of the present Admiralty, and many against it. For it,

Sir *John Lowther.* The Hollanders, in whom there is no want of diligence, &c. have lost as many ships as we, even whole fleets of merchants, and their convoys, taken at once; and yet nothing is objected against their Admiralty. The commissioners had no opportunity to clear themselves, being only generally charged.

Sir *Robert Cotton.* The Miscarriage of our

* " The earl of Mulgrave, who had more distinguished himself by his eloquence in this debate than ever, was induced to print his Speech, which was every where received as if it had been a new Revelation." Ralph.

" The Bill was ordered up to the lords on the 22d of Dec. The first reading produced nothing extraordinary; but on the second, when a motion was made by the malcontents for committing it, notwithstanding all the efforts of the courtiers to over-rule it, the former carried their point by a majority of 9 voices; nor was this all; for in the committee they were still triumphant: and even on the report, when the court exerted their whole strength, of the lords present, 42 were for the Bill, and only 40 against it: so that the scale was turned by the Proxies; of whom the court had 7, and the opposite lords but 3: difference upon the whole, two. Every body that knows any thing of parliamentary affairs, knows, that ministers esteem such a division as this, an escape, rather than a victory; and surely this was one of the narrowest that ever befel any ministry whatever: besides, the vanquished party rallied the most considerable persons of their corps, among whom, it is most remarkable, was prince George of Denmark, duke of Cumberland, and entered their Protests on the Journals of the house." Ralph.

* Sent to Mr. Anchitell Grey, by Mr. Wilmot.

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merchants was, that having insured, they ran for markets, and saved themselves well enough in the whole, though often they miscarried; and they might often have had convoys, but would not stay for the abovesaid reason. There is not a sufficient number of proper cruising ships for convoys. The Vote passed in the committee without other faults mentioned, and the gentlemen of the Admiralty are of great integrity.

Mr. *Howe.* I think the fault not in the Admiralty-Board, and therefore it is improper for a burt in the leg, to lay a plaister to the arm. Now they have gained experience at our cost, I would not lose their service, for some of them have had good experience. I am for a particular Vote to be put on each of them.

Sir *Tho. Littleton.* I am of opinion that fidelity and diligence (allowed by all that speak against them) will master any difficulty in this, or any other office. Oliver Cromwell, when applied to by any person, to be employed in any office, by several, by their respective friends, used to say, 'Who will give me his hand, and say that he will engage that the person to be employed, shall be faithful to me and my government?' I think those gentlemen such, for my part, to the government.

Sir *John Guise.* Never Fleet was set out earlier, nor better provided, than ours the last year. In the former session, the gentlemen of the Admiralty moved to have some cruising frigates built, to secure the Trade, but the house, for want of some formality, denied their desire.

Sir *John Dorrell.* No fault was found in the Admiralty, when lord Torrington was beaten, and faults there really were; but now our affairs have prospered, we find fault.

Against the Admiralty.

Sir *John Guise.* I have nothing to object against their integrity, but the advice which came from the committee mentioned, 'That they should be of experience.'

Col. *Granville.* I must lay before the house the great loss of Ships on the coast of Cornwall, last year: 40 sail were lost on that coast, and not one cruiser there for us. Our ships were taken in sight of the shore, and no colours seen on the coast, but those of the enemies.

Sir *Christ. Musgrave.* I cannot agree 'That industry and fidelity are qualifications for any employment,' particularly not for this of the Admiralty. Some, in their behalf, said, 'They had not the sole power and ordering of the Fleet; but I say, they have the same power that the Admiralty ever had, and they do not exercise what they have, but order Petitions to go to the Secretary's Office. I am for advising the king, as thought well of in the committee, for such advice will injure no man of experience.

Col. *Churchill.* Those that serve in the Fleet see daily their want of experience, and the great ships stay out too long, and the lesser, for cruising, set not out early enough. When the great ships did come in, the havens were filled before with the Virginia Fleet, and others; which havens were the proper ones for the great ships. The Admiralty have broken the public faith of the nation, not observing the king's Proclamation; which promised that seamen should not be turned over; yet they are.

Lord *Falkland* spoke very handsomely; making use of much that was said by others in behalf of the Admiralty: but, as to what Churchill said, he answered, Some of the great ships did come in early, and Churchill's ship for one; the rest were ordered, by the queen and council, to stay out. As for turning over seamen, some came in so very early, that they would have lain at great charge; and therefore another Proclamation was issued out for turning them over.

Colonel *Churchill* again stood up, and excused lord Falkland, as having better experience than the ignorant major part which govern.

Sir *Robert Rich* recriminated on the officers of the Fleet, (with intimation more particularly, that Churchill was faulty) that they pressed men, and took money for discharging them.

Mr. *Hutchinson* divided the question into two; which the house yielded to.

The first question was, "That the king be advised to constitute an Admiralty of persons of known integrity and experience in maritime affairs." The 2nd, "That all Orders for the management of the Fleet shall, for the future, pass through the hands of the commissioners of the Admiralty."—The first question the house disagreed to, 135 to 112. The second passed.

A Bill for frequent Parliaments brought into the House of Lords.] Jan. 16. The house of lords went into a grand committee upon the Bill 'for the frequent calling and meeting of Parliaments,' which had been brought in by the earl of Shrewsbury. They agreed, that a parliament should meet every year, and that there should be a new one every three years, and then came to the Clause, which declares, That, if the king should not order new writs to be issued out, the lord chancellor or commissioners of the great seal should do it by their own authority under severe penalties. But this was postponed, and they proceeded to the next point, which was, when the present Parliament should determine; some proposing one, others two, and others again three years; but this debate was adjourned.

Jan. 18. The lords in a committee of the whole house went through the said bill, and ordered it to be engrossed. It enacted, that there should be a new Parliament every three years, and meet every year; and that the present Parliament should continue no longer than till the 1st of January following.

Reasons for not agreeing with the Lords in an Amendment to the Land Tax Bill.] Jan. 18. The following Reasons were given by the

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commons, at a Conference, for not agreeing with the lords in adding, by an Amendment, commissioners of their own house to the Land-Tax Bill:* "That the Right of granting Supplies to the crown is in the commons alone, as an essential part of the constitution; and the limitation of such grants, as to the matter, manner, measure, and time, is only in them; which is so well known to be fundamentally settled in them, that to give Reasons for it, has been esteemed by our ancestors, to be a weakening of that Right; and the Clause sent down by your lordships, added to this Bill, is a manifest invasion thereof."

The lords having made a report thereof to their house, the consideration of that matter was adjourned till the next day, when their lordships, after a long debate, resolved to recede from the said Clause, which was carried by so great a majority, that the house did not divide upon it. After this the house appointed a committee to draw up Reasons for their quitting this Clause, to be communicated to the commons the next day, to this effect, That their lordships did for the present depart from this point purely in consideration of the pressing exigency of affairs, being otherwise of opinion, that of right they might have insisted upon it.—The ill humour, it seems, which thus shewed itself in the house of lords, was chiefly managed by the marquis of Halifax and the earl of Mulgrave. They had drawn in the earl of Shrewsbury, who was very ill pleased with the credit that some had with the king, and lived in a particular friendship with the earl of Marlborough, whom he thought was both ungratefully and unjustly persecuted. Those lords had all king James's friends, ready to assist them in every thing that could embroil matters. A great many Whigs, who were discontented and jealous of the ministry, joined with them; but they knew that all their murmurings would signify little, unless they could stop a Money-bill. Wherefore, as it was settled in the house of commons as a maxim, that the lords could not make any alterations in Money-bills, they put their strength to carry a Clause in the land-tax-bill, that the peers should tax themselves. And though, in the way in which the clause was drawn up, it could not be defended, yet they did all that was possible to put a stop to the Bill, and with unusual vehemence pressed for a delay, till a committee should be appointed to examine precedents. This the earl of Mulgrave pressed for many hours, with great force of argument and eloquence. He insisted much upon the dignity of peerage; and made this which was now proposed to be so essential a part of that dignity, that he endeavoured to convince the lords, that, if they yielded to it, they divested themselves of their true greatness, and nothing would remain, but the name and shadow of a peer, which was but a pageant. But, after all the force of his rhetoric, the lords considered the safety of the nation, more than the shadow of a privilege, and so dropped their clause *.

Complaint against a Book entitled "King William and Queen Mary Conquerors."] Jan. 21. A complaint was made to the commons of a printed Pamphlet, lately published with license, and said to be written by Charles Blount, esq. entitled "King William and Queen Mary Conquerors," as containing assertions of dangerous consequence to their majesties, to the liberties of the subject, and to the peace of the kingdom. The house therefore, upon examination of the matter, ordered, the next day, the said Pamphlet to be burnt by the hand of the common hangman, and that his majesty be desired to remove Mr. Edmund Bohun, the Licenser, from his employment, for having allowed the same to be printed. It was at the same time suggested, that Dr. Burnet, bishop of Salisbury, was the inventor of the notion of their majesties being Conquerors, which he had first of all published in his Pastoral Letter. This occasioned a debate of several hours, but at last it was carried by 162 against 155, "That the said Pastoral Letter should be burnt by the common hangman."—There was likewise complaint made by one of the members, of a book written on the same subject, by Dr. William Lloyd, bishop of St. Asaph, intitled "A discourse of God's ways of disposing of Kingdoms;" but that motion fell.

The lords likewise took into consideration the Book intitled "King William and Queen Mary Conquerors," and ordered it to be burnt the next morning in the Old Palace-Yard in Westminster, and afterwards passed this vote: "That the assertion of king William's and queen Mary's being king and queen by conquest was highly injurious to their majesties, and inconsistent with the principles, on which this Government is founded, and tending to the subversion of the rights of the people;" This Vote they resolved to communicate to the commons at a conference the next morning, and to desire their concurrence thereunto; which was given by the latter with the remarkable addition of some words, viz. 'injurious to their majesties rightful title to the crown of this realm.'

Debate in the Commons, on the Bill for frequent Parliaments †.] Jan. 28. An ingrossed Bill, from the lords, "For the frequent calling and meeting of Parliaments,"

* By this Proviso, added by the lords, all the peers were to be rated for their offices and personal estates, by 26 of their own house, therein named, or any five of them, and not otherwise; and were not to be subjected to the imprisonment of their persons; and the several rates and taxes to which the peers, by virtue of that Act, were liable, were to be received and paid into the Exchequer, by a collector to be nominated by themselves. See the Journal.

* Burnet. Tindal.

† Sent to Mr. Anchitell Grey, by Mr. Wilmot.

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was read the first time. The Bill, first set forth, 'That a Parliament shall be holden once every year: next, that a new one shall be called every three years, after the dissolution of the former parliament: And, lastly, that a period shall be put to the present Parliament in January next.'

Mr. *Goldwell.* I can never give my consent to the Bill. It is calculated for some particular purpose. I desire you would consider, and reflect, upon what offence we have given the lords, that it should be put upon us to dissolve ourselves. Consider, whether it was not the asserting ours, and the rights of our ancestors, by the Bill of Rights? Whether they are not offended at the Supply we have given for our necessary support and being? The lords have more justly incurred our displeasure, by assuming the judicature of Westminster-Hall. The dissolution of this present parliament is, to revive animosities in new elections, and punish the king, by making it not his grace to call a parliament; but to put it into the lord-lieutenants to pack a parliament. The lords assume much in dissolving the commons; a prerogative only of the king! It is ill timed, as well as ill designed.

Sir *Charles Sedley* *. That the bill passed the lords unanimously, ought to be no argument for us to pass it; for were any thing proposed to their diminution, it would find as easy a passage in this house: How fond were we of taking away their *Scandalum Magnatum*? I remember we lost a very good bill by attempting, and they by refusing it; but they would not then, nor do they now, offer up any thing of their own for the public benefit; there is not one word concerns themselves in this popular bill. We have sate too long; we must never hereafter sit above three years: they would ease the people, but it must be all at the expence of the house of commons, not a privilege of their own must be shaken. It is urged, we are the people's ambassadors, or attorneys, as others say; and they ought to have a power to change us, if they find we act contrary to the nature of the trust reposed in us, or are corrupted to a court-interest, that they are any ways dissatisfied with our prudence or integrity; and therefore be it enacted, a new Parliament shall be chosen every three years. Truly I cannot see any security for the people against an ill parliament in this Act; for a corrupt house of commons may undo the nation in three years, as well as in thirty: for admit any one parliament to be so far corrupted, as to pass laws to the injury of liberty or property, they can never be repealed but by the Act of the king and lords; who, when once they have thought it their interest to procure such laws, will never consent to the repeal of them: for though the house of commons will be new every three years, the king and the house of lords will be still the same in interest, if not personally: So that one ill parliament, though but of three years continuance, may prove a disease incurable. But men will say, it is better the people should chuse a new parliament every three years, than that the same representatives should be continued upon them at the king's pleasure, how negligently, how imprudently, how dissatisfactorily soever they perform their duty in the house. This is not to be answered: But we ought to have so much esteem for our prince, as not to think he will long continue such a parliament upon us, and to give him a little latitude in the calling and dissolving part; so as not to tie him strictly to the letter of those laws, which, as I told you before, never were observed by any of his predecessors, nor rigorously insisted upon by any of ours. When he shall have made a considerable transgression, it were then time enough to enter our complaint: But, say some gentlemen, on the other side, good laws are never to be obtained, but in the reign of a good king; therefore this is the time to press for so good a law as this is, that may keep an ill-disposed prince in order. Truly I do not see it provides against any thing, but that an ill prince shall not enslave us by one continued long parliament; but he may do it by a triennial one, whenever he and they can agree about it; nor call these parliaments, but when the king has business for them, and has also a strong presumption, they will comply for the adjourning, proroguing, and dissolving such parliaments as he dislikes. Thus all will be in his power, though this act pass; and even triennial parliaments cannot give us a certain remedy, in case of any invasion upon our liberty and property; for it is the king that must appoint time and place. Though the house of lords and commons are essential parts of the English government, yet in this politic existence they depend upon the will and pleasure of our kings. The people of England are the same, their reasons of chusing the same, and I question not but they will send us the same men, or the same sort of men again. Mr. Speaker, I can by no means approve of this bill at this time: But my main exception lies against the clause which requires the dissolution of this present parliament, by an act of the legislative power. Never was there any such invasion upon the prerogative of a king, never such an indignity offered to an house of commons in being. The next house may take other measures than we have done, and then what is got by a new parliament? If they take others, you know not what disorders may follow.

Sir *Joseph Tredenham.* I am for rejection of the bill. We ought to be tender of the king's prerogative, and the calling and dissolving parliaments, the chiefest flower of the crown. It is not reasonable to receive such a proposal from the lords. The commons have been and ought to be ever jealous of what hath come from the lords, and have very good reason; the lords having passed their judgments on this present parliament; though they have protracted the time of execution till January.

* Sedley's Works, vol. ii.

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I conclude, that we ought to vindicate the prerogative, and ourselves.

Sir *Edward Seymour*. I waited for reasons for the Bill, but find none. Nobody doubts, but that holding of frequent Parliaments is good; but the bill is not for that intent. It is a law already that a parliament be every three years; so that the whole intent of this is the dissolving this parliament. By this Bill you will take off the dependency of the people on the crown, and set up the lords, that have no right, and turn the commons out of doors. Is it reasonable that the lords, who only represent themselves, should turn you out, that represent the people? Whenever the lords set up a right of their own, certainly some great end is to be suspected; since this bill is against the crown and the commons.

Mr. *Finch*. I am against the bill. The lords may begin and send down any bill, not relating to money; but I confess, this cannot be very acceptable, for the dissolving this house. Whatever has been said for the bill, it is not such a bill as is law already. By a law in Edw. 3's time, "That parliaments be annual, and oftener, if need be," they are expounded to be annual, as well as oftener; and the law also for Triennial Parliaments hath been expounded, that parliaments shall be, not that new ones should be; and the best exposition of the law is the use and practice of it. The bill takes away the great prerogative of dissolving parliaments. That the proceedings of whole parliaments have been vacated, because they have been against the prerogative. The bill supposeth kingly government opposite to the people. Though the Pension-Parliament, as it was called, sat long, yet I desire gentlemen to shew me what right that Pension-Parliament gave up?

Sir *John Lowther*. By this, the lords are doing a thing that strikes at your very constitution. Their rights of sitting are certain. Considering what we have done, it is to our disadvantage to be represented to the lords as fit to be dissolved; as if there were some secret reason for the same. It is enough to bring those we represent out of conceit with us, whose purses we have disposed of. If the lords house was to be regulated in their sitting, it would be much more reasonable to accept this bill.

Sir *Richard Temple*. I have ever been for Triennial Parliaments; yet this bill is the most dangerous thing that ever hath been in the house; since this is provided for before by other laws, this is designed for something else, plainly to end this house. It is directly against the king's prerogative of dissolution; and I doubt that new elections may set the nation in a ferment, in a time of war; and I doubt this is the design.

For the Bill.

Mr. *Pelham*. I am sorry to see gentlemen offended at a bill of so good a title and intent. The objections have been three against it; 1. That it comes from the lords. 2. That it will hazard the government. 3. That it is unseasonable. As to the first, I take the lords to be concerned to do some such thing, because they rejected a bill from this house much to this purpose. As to the second, nothing of this kind can hazard the government, from the people of England. A present member of this house, a member also of the Pensioner-Parliament, told me, 'That he, by order, paid Pensions to 30 members of that house.' The like, by long sitting, may be done again. As to the third, the bill can never be more seasonable than when we give so much Money.

Mr. *Hopkins*. Our ancestors always aimed at this, as appears by several ancient laws to this purpose. The like was well enough offered at in the last ill times. When men continue here long, they alter. They come up hither free-men, but are here made bond-men. If to be elected be an honour, let neighbours share; if a burden, so likewise.

Mr. *Hutchinson*. I hope the lords sent down this bill on no ill reasons; and I think that we, by negligence, and late attendance, seem weary of our own sitting.

Mr. *Herbert* *. I am not of opinion that it intrenches on the king's prerogative, or people. The lords may as well send bills to us, as we to them. The last Clause, upon commitment, may be mended. As to determining this present parliament, I had rather have a Standing Army, than a Standing Parliament.

Mr. *Bowyer*, of Southwark. The two greatest mischiefs to this kingdom are, either to have no parliaments, or to have long parliaments. Both were experienced in king Charles 1's time. We had also the experiment of an ill Long Parliament in king Charles 2's time. If the late king James had not revoked the writs for calling a parliament, which he had issued out, he might have been here still [at which all laughed.] This present parliament is esteemed a well-officered parliament; and I doubt it will be so more and more every day than other. The Bill of Rights would have frequent parliaments, in the plural number: such a Bill will make men not spend money to be elected.

Mr. *Harley* arraigned the lords for sending down this bill; touched on their extravagant assuming of judicatory power; and then said, The Bill is a plausible panegyrick on this parliament, for its funeral oration; yet, notwithstanding, I am for the bill. Such remedies, to obtain good things, must be obtained in good princes reigns. Annual parliaments have been enacted by several statutes. When one is grown a little old another hath been made. It is no intrenching on the prerogative, but is for the honour of the king. He hath said, in

* A hearty promoter of the Revolution; going over to Holland to offer his assistance to the prince of Orange some time before. And, in consideration of those services, he was created lord Herbert of Cherbury, in 1694. In 1705, he was appointed one of the Lords of Trade, and died in 1708.

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his Declarations, 'That he will put us in such a way, that we need not fear being under arbitrary power, by yielding any thing to make us easy and happy.' Our honour is concerned for this bill; considering what we have done, we should let others come in, that they may find, that Money is not here to be gotten. A standing parliament can never be a true representative; men are much altered after being some time here, and are not the same men as sent up. The lords sent you a Bill in Hen. 8's time, for settling their Precedency,* and you have sent Bills to them concerning your Privileges.

Sir *Tho. Clarges.* I should be unworthy to sit here, if I did not give testimony to this bill. It is the best bill that ever came into this house since 25 Edw. 3, of Treasons, &c. I would never countenance any encroachment of the lords; but I take it to be none; and I cannot refuse to speak in behalf of the bill; we should otherwise go into the country with discredit. I am not against my neighbours coming here, to see what we have done. We should do well to imitate the Long Parliament in Charles 1's time, which, by their Self-Denying Ordinance, kept up their credit longer than otherwise could have been, and would otherwise have fallen sooner. In the Bill of Rights, the Clause of Triennial Parliaments is the chief good thing we can do for ourselves.† The language of the Bill is the same with the ancient former laws for annual parliaments. The Long Parliament was ever esteemed a Grievance by me.

Mr. *Foley.* I take it, that the bill is not against the prerogative; for a present law is for a Triennial parliament. We may send any bill to the lords about their members, and they also to us; only no bill for Money is to be sent to us. It is necessary for us to have frequent parliaments, and to take care also that parliaments be not corrupted, which frequent and fresh are less subject to. Some deficiency is in the bill, but all may be amended at commitment; for something now ought to be to prevent Corruption.

Mr. *Freke*, jun. only made this short observation: From this house, a bill moved to the lords against the Popish lords, and was received.

Sir *Tho. Littleton.* To receive the bill is essential to the peace of both houses. It is not usual to reject a bill at first reading. Such a rejection would be construed, that the house could not endure to be dissolved. To begin a new bill here touched on by some, would provoke the lords. You amend all faults yourselves. Though there be law for Triennial parliaments already, yet plainly no effect hath been. The Clause of Dissolution of the present Parliament may be left out. If gentlemen oppose the bill for that reason, yet let us have the bill for the benefit of posterity.

Sir *Francis Winnington.* The great men that were for Prerogative in Charles 1's time, in defect of parliaments, turned prerogative into arbitrary power. In the Pensioner-Parliament of king Charles 2, made so by long continuance, a Bill against France could never pass, and it was against building of Ships. This parliament is already so well-officered, that much enquiry is, how many things come to pass. There is as much right to the people to have frequent parliaments, as to have parliaments; because they cannot recall and revoke their members, when elected. The lords may send down bills relating to the good government of the people, but not for Money. The lords accepted from us a Bill to disable the Popish Lords: short and frequent parliaments would cure the great evils and oppressions of privilege. There is no pressure on the prerogative, because the thing used to be so, and, by law, should ever have been. The people's rights will hereby be settled, which as king Charles 1. said, 'best supported the prerogative.'

Sir *Christ. Musgrave.* Since, formerly, laws made to this purpose have been evaded, it is fit now that such laws should be explained better. I have ever found long parliaments ungrateful to the people. As to the objection, 'That, being in a War, new elections will give disturbance,' I answer, that, by that reason, you must sit during the war. The reason, to perpetuate ourselves, is of no great benefit; but on the other side, let your neighbours come in, and those we represent be at liberty to be served better. I think that long sitting of parliaments is not for the king's interest. This parliament hath either had adjournments, or short prorogations, by which means, by reason of privilege, the people cannot have their rights. By this, we shall show that we are not lovers of ourselves.

Capt. *Mordaunt* answered an objection made, 'That by change from the Convention to this parliament, there were not above fifty different,' by saying, 'That he wished that the opinions of the Convention and this parliament had been the same.'

Colonel *Granville.* Whereas we are told, 'That this Bill seemed to be founded upon a disaffection towards this king, and also to kingly government,' I think this bill takes care of our ancient constitution, and doth not innovate. When parliaments sit long, many will spend money to come in. The lords have done no other good things this parliament. This makes some atonement for casting out the former bill (the self-denying Bill.) I hope gentlemen will not be against looking their country in the face when here discharged.

Lord *Coningsby.* I am not afraid to have the parliament dissolved, but would not have it from the lords. If the lords will make themselves temporary, I will consent to do it here in this house.—The Bill was ordered to be read a second time, 210 to 132.

Trial of Lord Mohun.] Jan. 31. The lords sat in Westminster-hall upon the Trial of the lord Mohun, for the Murder of Mr. William

* See vol. iii. p. 355. † See p. 483.

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Mountfort the player,* the lord president being lord high steward; and after examination of the witnesses, which lasted till five in the afternoon, their lordships withdrew to their own house, and, after some debate, adjourned the court till the next morning, and set a fine of 100*l.* each upon the lord Faulconberg, lord Newport, lord Lovelace, and lord Leigh, for going away before the house was adjourned; which they excused the next day on account of their being faint and quite spent with so long an attendance.

Feb. 1. The lords met again in their own house, and continued together till seven at night without going down to the court in Westminster-hall, spending the whole day in stating and debating several points of law, without taking any resolution thereupon, further than that it was resolved, That every peer might ask the Judges in open court what question he pleased as to points of law; and then they adjourned till the 3rd.

Feb. 3. The lords met in their own house, and debated about the questions to be asked of the Judges; and about four in the afternoon went down into Westminster-hall, where several questions were asked the Judges in presence of lord Mohun the prisoner; after which their lordships returned to their own house, to debate thereupon; and about nine adjourned the court till the next morning, when 14 of them found the prisoner Guilty, and 69 acquitted him.†

Debate on the Bill for frequent Parliaments.‡] Feb. 9. The Bill for frequent calling and meeting of Parliaments was read the second time.

Against the Commitment.

Sir *Charles Sedley.*‖ The long parliament of 1640 was declared extinguished by act of parliament, but all the world saw what they attempted, and what they executed: and I hope we shall never pass an act that may couple us in history with that sort of men. Mr. Speaker, I have seen several parliaments in this house, yet never could observe any great change of proceeding, till the whole nation was alarmed at the duke of York's declaring himself a Papist, the discovery of the Popish Plot, and king Charles the 2nd's being suspected for that religion: then there was a change indeed; but I hope we have no calamities of that magnitude now to provide against: our king is in our interest abroad; he is an utter enemy to France; he is a good Protestant: we are ready with our purses to support him in the defence of our liberty, religion and property; we are honest in the main, and I cannot see the nation can be in better hands; however, let us be extinguished in the usual way of parliament, and not pull on ourselves a violent, and, I think, an ignominious death, by an act of the legislative power for our extinction. The long parliament could not be dissolved but by act of parliament; for they had obtained an act for their continuance, which could not be annulled but by an act for their dissolution; and therefore they were of necessity so dealt with.—To conclude, sir, for these and many other reasons given me by gentlemen, who spoke before me, I am against this bill at this time. It is said other gentlemen have a right and a just expectation of sitting in this house in their turns, as well as we that are now here, which this bill will put them in possession of; but that argument supposes this parliament will be continued for ever, if this house of commons be not extinguished by this law at this time, which I can no ways admit of: we are all for frequent parliaments, as well those against the bill, as those who are for it; but some of us had rather obtain it from some ordinary act of the king's prerogative, or such occasions, than extort them by a written law which may be of too stiff a temper to bend or comply with such emergencies of state, as may perhaps make the continuance of the same parliament a session longer than the law allows very advantageous, if not altogether necessary. I should have liked this bill better if it had begun in our own house; then it had been a self-denying bill indeed; but now it looks like a surprise upon us from the lords, and brings us under this dilemma, that if we pass it, we throw ourselves immediately out of this house; if we reject this seeming popular bill, we hazard our elections into the next parliament; for we are told by such as would have it pass, that the gentlemen who are against this new choice of the people, cannot expect to be elected by them into the next parliament: thus we are to overlook all considerations of state and public concernment, and pass this bill in order to gratify our corporations, that they may chuse us again. Truly, sir, for my part, I renounce those partial measures, and if I cannot be chosen upon the account of general service to the nation, I will never creep into the favour of any sort of men, and vote against my judgment.

Mr. *Dolben.* The lords have taken upon them too much, to dissolve the commons; they

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* See State Trials, A. D. 1692-3.

† "In the beginning of Feb. 1692-3, the lord Mohun was indicted for the Murder of William Mountfort the player, who, for his good action on the stage and good-nature in life, was a great favourite of the town. A rakish officer had made lewd addresses to Mrs. Bracegirdle, the famous actress, which she returning with disdain, the man resolved to get his will of her by force. Mountfort coming from her lodgings, having seen her safe home, was attacked by this officer and basely murdered. The lord Mohun, being present when the murder was committed, was apprehended, imprisoned in the Tower, brought to his trial for it before his peers in Westminster-hall, the marquis of Carmarthen being constituted lord high-steward. After a trial of several days he was acquitted." Tindal.

‡ Sent to Mr. Grey by Mr. Wilmot.

‖ Sedley's Works, vol. 2.

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never did any thing that showed any regard to this house; they have frequently rejected or clogged our bills sent to them; as the Bill for regulating Elections, and spurned at the bill at the first reading. They are for the increase of their own powers, and diminishing of ours. Why did they not join in the Bill of impartial Proceedings in Parliament, &c.! I think, therefore, they have no zeal for the good of this house. Whatever is the intention of the lords, the consequences must be dishonourable to us. The bill doth certainly intrench upon the prerogative, and every true Englishman ought to keep the true balance. I am amazed that the lords could bring themselves to sending such a bill. I have read of 'indoctum parliamentum,' and of 'benedictum parliamentum,' but we, by yielding to pass this Bill, may be branded to be 'stultum parliamentum.'

Sir *John Lowther.* Such a law as this, in 1640, was the ruin of the nation. They were not to be dissolved but by their own consent. It was ever esteemed the greatest prerogative, to call and dissolve parliaments; and, though the king's consent must be had, yet, in effect, it is when the people will. It is plain, the lords think you not fit company for them to sit with, and they would recommend themselves by such a law and provision. We have a good king on the throne, and may therefore certainly be happy in our ancient way and constitution.

Sir *Orlando Gee.* I was for the bill at first, because it had a plausible title, and I would not give offence to the lords; but I doubt it will be an invasion on the prerogative. I would have the king have his rights, as well as the people theirs. What we aim at by this Bill, may as well be done another way, and more decent. I would have the house humbly address, 'That an end may be put to this Parliament, and that frequent parliaments after may be.' The king of France hath formerly given money for prorogation and dissolution of parliaments, and now you do it for him *gratis.* Our alliances may be hereby weakened, as if we were weary of giving Money. After dissolution, ill accidents may happen, to our prejudice. If a parliament had not been, at the duke of Monmouth's Invasion, it had been very hard, though no title could have been pretended. I conclude to have an Address, &c.

Sir *Edw. Seymour.* I waited to hear if gentlemen had proposed any amendment, but none being, I must oppose the bill. I will not mention what was said in a former debate. I am no prerogative-man; that is, to set up prerogative against law; but if you take away calling and dissolving parliaments, you take away the government itself. Queen Elizabeth said, 'I called you hither to assist me, not to take away my prerogative.'* The prerogative is as inherent in the crown, as the people's rights in them. You have brought the crown into a War; it is just now under the difficulties thereof; at this time to wrest the prerogative from the crown! We have given much Money; credit must support what is to come, and this for the bill will much impair such credit. Will another parliament always consider what a former has done? Nothing will more gratify the enemies of our common safety, than the passing this bill.

For the Bill.

Sir *Wm. Strickland.* I think more charitably of the lords intentions. I would know, if a person do any of us a real kindness, whether it is reasonable to examine into the intentions? Frequent parliaments will be much better, and the ministry also will be thereby much better.

Mr. *Hutchinson.* The best of kings was not against limiting the prerogative, as in Edw. 3's time, when the laws for annual parliaments were made. The corruption of the Pensioner-Parliament was by long sitting. I think none can be against this bill, but such as doubt of being chosen again, and others also that are unwilling to spend money.

Mr. *Howe.* Many scandals are upon us. 'The argument of prerogative, and the advantage we shall give to our enemies by this bill,' are words we make use of for our own sakes. We are told, 'That, by this bill, our credit will be lessened.' I do aver, that persons without doors thank us for it, and applaud the bill. It is said, 'It will weaken our Alliances:' it is unreasonable but we should have some good laws for ourselves, and not respect Alliances with neglect of ourselves. I think that this bill makes us more united among ourselves. The lords were anciently called *pro hac vice,* but now, by some *vice* or other, they are always called. Lord Coke says, 'Before the conquest, a parliament was held twice in a year, and in Edw. 3's time, once a year, and this to redress Grievances, which every day happen.' I hope to behave myself so well as to be again sent up.

Mr. *Brockman.* I would propose an Amendment; for, as the bill is drawn, a parliament may not be held in three years. I wonder this should be thought to intrench upon the prerogative, since the king hath declared so much in favour of parliaments. The people are so well disposed, that no danger can be of a new parliament. It is better for the king to rely on his people, than on the ministry, not excepting the present ministry.

Sir *John Morton.* If I had thought the bill against the prerogative, I should be for casting it out, for the government hath deserved better of us than the late ones, which were for cutting our throats.

Lord *Castleton.* Second thoughts are esteemed best, but it is not so in sir Orlando Gee.

Mr. *Goodwin Wharton.* I believe the bill not designed ill by the lords. I am sorry that so frequent reflections are upon the lords. I believe they thought not ill of this house, for only a good house will consent to such a bill. I have no distrust of the king, but would have it now to be gained to provide against a bad

* See vol. i.

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prince. The bill is to provide against two extremes; parliaments not too long, and parliaments not too frequent. I think that freedom may be used here, and, I think, that those who are against this bill are no friends to the government.

Mr. *Foley.* Some have objected, what ill laws were made in that parliament, called 'The Pensioner Parliament.' What rights of the people gave they up? By the law of Triennial Parliaments, as passed and confirmed, they, by implication, perpetuated themselves; by means whereof, the ill ministers of that time were perpetuated. I think it very fit, that, if we cannot find out our ill ministry, others should come that may find them out.

Mr. *Neale.* It is the interest of the king that the bill pass, as well as that the subject will thereby be well pleased, since it will show them that their majesties intend to govern by law. It is objected, 'That it came from the lords.' A good thing sometimes may come. I cannot think that passing this bill will impair our credit, as is told us, nor that it can gratify our enemies. We are told; 'This is not a proper time,' but I think, that in so good a reign, such a good law is to be gained.

Mr. *Hungerford.* Except the last Clause, the bill is only declarative of the ancient law; yet, perhaps, it is not amiss, to have this present sanction of a law. In Edw. 3's time, the law for annual Parliaments was not always observed, but the people therefore were dissatisfied; insomuch that the king called one, and the bishop of St. David's, who opened the parliament, told them, 'That the king called them in pursuance of that law*.' The Triennial Act intended a new parliament every year, not a triennial sitting. A parliament that sits long, cannot be a true representative of the people of England; as in 1640, and 1660. The people of those times were of a different spirit. The king employs all sorts of persons. In a former debate on this Bill, the persons employed were some for, and some against, the bill. I am for having a new parliament, that the king may be acquainted with all his people.

The Bill was ordered to be committed. The time of Dissolution was altered from January 1, to March 25, 1694, if the king pleases.

The Compiler, Mr. Anchitell Grey, had the following from sir W. A. relating to the same debate.

"Pretty were the tricks in putting questions, but prevented by the care of the house. It was objected, 'That this was a good house, and that the nation would not be grieved with its continuance.' Col. Titus said, 'Manna, when it fell, was sweet as honey, but, if kept, bred worms. It is objected, We have good laws for frequent parliaments already. I answer, the Ten Commandments were made almost 4000 years ago, but were never kept.'—The house then was troubled with Riders, but they could not get into the saddle. At the first reading, when it was objected, 'That this Bill did not only retrench the king's prerogative, but might be reasonably ill taken by the king, who had done so great things for us.' Mr. Harley, in reply, pulled out of his pocket the prince of Orange's Declaration, and read it to the house."

The Bill was then passed 200 to 161*.

Address of the Commons upon the State of Ireland.] March 10. Upon information given to the house of commons, of the ill State of Ireland, the house ordered an Address to be drawn up; which was this day presented to his majesty, in this form:

"We your majesty's most dutiful and loyal subjects the commons in parliament assembled, having taken into our serious consideration the State of your majesty's kingdom of Ireland, find ourselves obliged by our duty to your majesty, with all faithfulness and zeal to your service, to lay before your majesty, the great Abuses and Mismanagements of the affairs of that kingdom. —By exposing your protestant subjects to the misery of free quarter, and the licentiousness of the Soldiers, to the great oppression of the people; which we conceive hath been occasioned chiefly by the want of that Pay, which we did hope we had fully provided for. By recruiting your majesty's troops with Irish papists, and such persons who were in open rebellion against you, to the great endangering and discouraging of your majesty's good and loyal protestant subjects in that kingdom. By granting Protections to the Irish papists, whereby protestants are hindered from their legal remedies, and the course of law stopt. By reversing Outlawries for High Treason against several rebels in that kingdom, not within the Articles of Limerick, to the great discontent of your protestant subjects there. By letting the forfeited Estates at under-rates, to the prejudice of your majesty's revenue. By the great Embezzlement of your majesty's Stores, in the

* See vol. i.

* "This bill, by which it was enacted, that a session of parliament should be held every year, a new parliament summoned every third year, and the present parliament dissolved, within a limited time, was brought in, when the Bill for Free and Impartial Proceedings in Parliament had failed. It was imagined that a bill from the lords dissolving a parliament, which struck only at the house of commons, the lords being still the same men, would upon that single account have been rejected by the commons; but they also passed it, and fixed their own Dissolution to the 25th of March in the next year, reserving to themselves another session. The king let the bill lie on the table for some time: so that men's eyes and expectations were much fixed on the issue of it. But, in conclusion, he refused to pass it; so the session ended in ill humour. The rejecting a bill, though an unquestionable right of the crown, has been so seldom practised, that the two houses are apt to think it a hardship, when there is a bill denied." Tindal.

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towns and garrisons of that kingdom, left by the late king James. And by the great Embezzlements which have been made in the forfeited estates and goods, which might have been employed for the safety and better preservation of your majesty's kingdom. We crave leave to represent to your majesty, that the Addition to the Articles of Limerick, after the same were finally agreed to and signed, and the town thereupon surrendered, hath been a very great encouragement to the Irish papists, and a weakening to the English interest there. Having thus, most gracious sovereign, out of our affectionate zeal to your majesty's service, with all humble submission to your great wisdom, laid before you these Abuses and Mismanagements in your kingdom of Ireland, we most humbly beseech your majesty, for redress thereof; That the soldiers may be paid their Arrears, and the country what is due to them for quarters; and that no Irish papist may serve in your Army there. And, forasmuch as the reducing of Ireland hath been of great expence to this kingdom, we do also humbly beseech your majesty, that (according to the assurance your majesty has been pleased to give us) no Grant may be made of the forfeited Estates in Ireland, till there be an opportunity of settling that matter in parliament, in such manner as shall be thought most expedient. That the true Account of the Escheats and forfeited estates, both real and personal, and stores left by the late king James, may be laid before the commons in parliament; to the end, that the said escheats, forfeitures, and stores, and the embezzlements thereof, may be enquired into. That no Outlawries of any rebels in Ireland may be reversed, or pardons granted to them, but by the advice of your parliament; and that no protection may be granted to any Irish papist, to stop the course of justice. And as to the additional Article which opens so wide a passage to the Irish papists, to come and re-possess themselves of the estates which they had forfeited by their rebellion; we most humbly beseech your majesty, that the Articles of Limerick, with the said Addition, may be laid before your commons in parliament, that the manner of obtaining the same may be enquired into; to the end it may appear by what means the said Articles were so engaged; and to what value the estates thereby obtained do amount.—Thus, may it please your majesty, we your most dutiful and loyal subjects, do lay these matters in all humility before you; and as your majesty hath been pleased to give us such gracious assurances of your readiness to comply with us, in any thing that may tend to the peace and security of this kingdom, we doubt not of your majesty's like grace and favour to that of Ireland; in the safety and preservation whereof, this your majesty's kingdom is so much concerned."

The King's Answer.] To which Address his majesty returned this Answer: "Gentlemen, I shall always have great consideration of what comes from the house of commons; and I shall take great care that what is amiss shall be remedied."*

The King's Speech at the Close of the Session.] March 14. The king came to the house of peers, and gave the royal assent to the Bill of Supply and to several other Bills. After which, his majesty made this Speech:

"My lords and gentlemen; The large Supplies which you have given me this session, are so great testimonies of your good affections, that I take this occasion with great willingness, to return my hearty thanks to you: and I assure you, it shall be my care to see that that money you have given, may be effectually applied to such services, as may be most for the honour and interest of England. I must recommend to your care the peace and quiet of the several counties to which you are now returning; and doubt not, but by your care, the Supply, which you have so freely given, will not only be effectually levied, but with the greatest equality too, and the least uneasiness to the people that is possible.—My lords and gentlemen; The posture of affairs does necessarily require my presence abroad; but I shall take care to leave such a number of troops here, as may be sufficient for the security of the kingdom against any attempts of our enemies.—I shall add no

* "By these proceedings it was plain, that an ill humour prevailed in both houses; and that the parties of Tory and Whig appeared almost in every debate, and in every question. In the house of lords particularly strong opposition was made to every thing that was proposed for the government. They past many votes, and made many addresses to the king, which were chiefly designed to load the administration, and to alienate the king from the Dutch. Their proposition for a committee of both houses to consider the State of the Nation, and to give the king Advice upon it, was such as had never been offered, but when the nation was ready to break out into civil wars. This committee, when once begun, would have grown, in a very short time, to have been a Council of State, and soon have brought all affairs under their inspection. The commons indeed passed the Supplies, but it was with great slowness; and those, who could not oppose them, yet shewed their discontent in delaying the bills, and clogging them with unacceptable clauses. The wasteful method was continued of raising money upon remote funds, by which there lay a heavy discount on tallies; so that above a fourth part was in some of them to be discounted. However, after their complaints of the Admiralty, and of the conduct in Flanders, particularly in the action of Steinkirk, and their voting some heads of an Address relating to these matters, the commons, by a secret management, let the whole fall, and those angry votes came to nothing. Though the lords persisted in their ill humour, any thing they could do was of less moment, when it was not like to be seconded by the commons." Tindal.

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more, but that as I shall continue to expose my own person upon all occasions, for the good and advantage of these kingdoms, so I do likewise assure you that my hearty and sincere endeavours shall never be wanting in any other kind, to make this a great and flourishing nation."

And then, by his majesty's command, the parliament was prorogued to the second of May.*

Promotions.] During the session the king conferred upon sir J. Trevor, Speaker of the house of commons, and first Commissioner of the Great Seal, the office of Master of the Rolls, in the place of Henry Powle, esq. deceased; and about a month after, his majesty thought fit to lay aside admiral Russel, and to put the chief command of the fleet into the hands of Henry Killegrew, esq. sir Ralph Delaval, and sir Cloudsley Shovel, and afterwards to appoint George Rook, esq. to be vice admiral of the red; the lord Berkley, vice-admiral of the blue; colonel Matthew Aylmer, rear admiral of the red; and David Mitchell, esq. rear-admiral of the blue: And on the 23d of March, sir John Trenchard was sworn one of their majesties principal secretaries of state, in the place of the earl of Nottingham; whose removal, as well as that of admiral Russel, was occasioned by the warm debates that had past in parliament about their conduct after the Victory at sea; king William expressing himself, in relation to his officers, as Julius Cæsar had with respect to his wife; 'That it was not enough for them to be faithful, but that they must be free from suspicion.' The same day his majesty committed the custody of the great seal of England to sir John Somers; whose office of Attorney-General was bestowed upon Edward Ward, of the Inner Temple, esq. At the same time his majesty ordered a new commission to pass under the great seal, constituting sir John Lowther, Henry Priestman, esq. the lord viscount Falkland, Robert Austen, esq. sir Robert Rich, Henry Killegrew, esq. and sir Ralph Delaval, to be Commissioners for executing the office of lord high admiral of England. Having thus settled domestic affairs, the king went to Harwich, in order to embark for Holland, but the wind proving contrary, his majesty returned to Kensington; from whence he parted again on the 31st of March, and embarking near Gravesend, arrived safely in the Maese on the 2d of April, after which he went to the Hague, and from thence to Loo.—This year proved fatal to the confederates both by sea and land; the French destroyed the Smyrna Fleet, were victorious at Landau, and made themselves masters of Huy, Charleroy, Roses, Heidelberg, &c. but nevertheless made offers of peace, at the close of the year, by the Danish minister, which were rejected. In the latter end of October, the king returned to his dominions; and within a week after put admiral Russel again at the head of the Fleet.

May 2, 1693, the parliament met, and was prorogued by commission to Sept. 19: from thence to Oct. 3; from thence to Oct. 26: and from thence to Nov. 7.

FIFTH SESSION OF THE SECOND PARLIAMENT OF KING WILLIAM III.

The King's Speech on opening the Session.] Nov. 7, 1693. The parliament met at Westminster, when his majesty made this Speech to both houses:

"My lords and gentlemen; I am always glad to meet you here, and I could heartily wish that our satisfaction were not lessened at present by the disadvantages we have received this year at land, and the Miscarriages of our affairs at sea.* I think it is evident that the

* Immediately after the close of the session, the leaders of the Whig party published a curious Pamphlet intituled, "An Inquiry, or, a Discourse between a Yeoman of Kent, and a Knight of the Shire, upon the prorogation of the parliament to the 2nd of May." A copy of which will be found in the Appendix, No. VIII.

* "The English and Dutch fleet was large and strong, and early equipped. There was also ready to take under their convoy a Fleet of Merchantmen, consisting of about 400 sail, English, Dutch, Hamburghers, Danes, &c. bound for the Streights. The Grand Fleet went with them to a certain latitude, and then sir George Rook, with 23 men of war, was ordered to proceed to the Streights. He left by the way, the vessels bound for Bilboa, Lisbon, St. Ubes, and other ports, under convoy of two men of war; and on the 11th of June, being come within 60 leagues of Cape Vincent, he discovered part of the French Fleet: upon which he called a council of war, wherein it was resolved, that the wind being fresh westwardly, and giving a fair opportunity to hasten their passage to Cadiz, the merchants should make the best of their way. Not long after, sir George Rook discovered the enemies' whole fleet; and stood off with an easy sail, to give what time he could to the heavy sailers to work away to the windward. The Sheerness was sent with orders to the small ships that were under shore to get in the night into Faro, St. Lucar and Cadiz. About six in the evening, June 16th, the French admiral, the count de Tourville, and vice admiral of the blue, came up with the leeward and sternmost of the confederate squadron; which were three Dutch men of war, that fought first 11, and then seven French men of war, but were at last forced to yield, having made the most obstinate resistance that ever was known; and the captains being carried on board the French admiral, he asked captain Schreyer, one of them, 'Whether he was a man or a devil?' but he treated them very civilly. The Dutch Merchantmen made for the shore, and the enemy after them, which gave a fair opportunity to the windward ships and those a-head to sail off; and this tacking after the Dutch, saved most of the fleet. How-

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former was only occasioned by the great number of our enemies, which exceeded ours in all places. For what relates to the latter, which has brought so great a disgrace on the nation, I have resented it extremely, and as I will take care, that those who have not done their duty, shall be punished, so I am resolved to use my utmost endeavours, that our power at sea may be rightly managed for the future. And it will well deserve your consideration, whether we are not defective both in the number of our shipping, and in proper ports to the westward, for the better annoying our enemies, and protecting our trade, which is so essential to the welfare of this kingdom.—My lords and gentlemen; I am very sensible of the great affection wherewith you have always assisted me to support the Charges of the War, which have

erer, the loss was very considerable, for besides four of the greatest Smyrna ships, and one Dutch man of war, which M. Coetlogon burnt or sunk at Gibraltar, and seven which he took; M. de Tourville and the count d'Estrees, the supreme admirals of France, most gloriously burnt a rich pinnace, as in bishop Kennett's History, and an English man of war, took 29 merchant ships, and destroyed about 50 more; which account must be corrected, by that which the count de Fourbin, who commanded a French man of war in this action, gives us, and we shall there find that the French, who are so apt to magnify their own gains and their enemies' losses, make both less at this time, than they are made by our own historians. 'The king's fleet,' says the count, 'consisting of 75 sail, under the command of the mareschal de Tourville, who having been beaten the last year by admiral Russel, was made a mareschal of France, and admiral Russel who beat him laid aside; sailed for the Straits of Gibraltar, to meet the count d'Estrees, who was coming from Provence with 20 other ships. We anchored in the road of Lagos, on the coast of Portugal; I was commanded to go out for intelligence, and to examine strictly what appeared: so that if I perceived a great number of ships, I should make it my business to find out 'whether they were merchantmen or men of war, belonging to the enemy.' Three other captains were detached with me on the same errand, and in a few days we spied a fleet of above 150 sail belonging to the English and Dutch; of which being well assured, we made haste to join our fleet, and informed the admiral, that the ships we had discovered were merchantmen, and not men of war: upon this news he tacked about, and sailing before the wind, for what reason I know not, he was got above ten leagues out of the way. Next day our whole squadron discovered the fleet of merchant ships, which the admiral ordered to be chaced, but the enemy took the advantage of the wind, which we lost the night before by our working, and made off, so that we did them but very little harm. However, we took two of their men of war of 60 guns, and burnt 30 of their merchant ships; which were run a-shore on the coast of Portugal. I burnt three of them myself, and took a fourth, and this was all the loss they suffered; and certainly it was happy for them that they escaped so well, because had it not been for the false step I just mentioned, their whole fleet must have been taken or destroyed.' —Most of the merchantmen that were taken or destroyed, were such as belonged to neutral nations; but the four great Turkey ships that were lost at Gibraltar, were English, and of as great value as all the rest. These four ships were got into that bay, as were also several Danes, Dutch, &c. and a squadron of French men of war coming before the place, threw bombs among them; one of the first bombs fell into one of the Turkey ships, which so terrified the commander of that and the commanders of the other three English ships, that they immediately sunk them; though it was thought the French might have shot 500 bombs, and not one more have fallen into any one of them. Sir George Rook's conduct was alike brave and prudent; he disposed of his ships to the best advantage, and afterwards made the best of his way, with the men of war and merchantmen under his charge, to Ireland. This misfortune lay heavy on the hearts of the merchants, and indeed upon the minds of all the people of England, and therefore at the next meeting of parliament, the first thing they did, was to enquire into the Miscarriages of the Fleet the last summer, and after enquiry, the commons resolved, 'That there had been a notorious and treacherous Mismanagement in the Miscarriage of the Smyrna Fleet;' but when the admirals came in question, the Negative was put upon censuring them. Every body excused sir Cloud. Shovel, and many thought sir Ralph Delaval very hearty in the service, but had not the like opinion of admiral Killegrew. It appeared afterwards, that one Anselm, a secretary aboard the fleet, held intelligence with Crosby; a letter from that conspirator, dated May 5, 1694, being found upon search, signed Philips, in which he said, 'I must needs see you before I go to France.'—There being some flying reports which gave jealousies of concealment in the Examination of the Admirals, the Privy Council published this Order, Oct. 25. 'Whereas a Report has been raised and spread by Henry Killegrew, esq. sir Ralph Delaval and sir Cloudesley Shovel, admirals of their majesties fleet, that the right hon. the lord viscount Falkland, one of the lords of their majesties most honourable privy council, did upon reading a Paper at the Board, stifle something that was material to their justification; the Lords of the Council having considered and examined into the matter, are satisfied, and do declare, that the report is false and scandalous: although upon Examination it did also appear, that something happened which might mislead the admirals into that error. And it is ordered in Council, that this be printed in the Gazette.'" Oldmixon.

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been very great; and yet I am persuaded that the experience of this summer is sufficient to convince us all, that to arrive at a good end of it, there will be a necessity of increasing our Forces both by sea and land the next year. Our allies have resolved to add to theirs; and I will not doubt but you will have such regard to the present exigencies, as that you will give me a suitable Supply to enable me to do the like. I must therefore earnestly recommend to you, gentlemen of the house of commons, to take such timely Resolutions as that your Supplies may be effectual, and our preparations so forward, as will be necessary both for the security and the honour of the nation."

Debate on the King's Speech, and the Miscarriages of the Fleet.] Nov. 13. Mr. *Foley.* The king's Speech is short, but of two parts, viz. the Disadvantage our Forces have had at Land, and the Miscarriage at Sea. Considering the time of the year, and the condition of the Navy, that is the greatest consideration, and first to be considered. But before we give Supply, the condition of affairs is to be considered, and the Miscarriage the last summer. They cannot excuse themselves. Our enemies are enriched by our losses. If the Miscarriages had been before considered, it might have prevented much. We had a powerful Fleet; had they done their duty, they might have destroyed the French Fleet; but instead of that, we have had great losses, and are become a scorn and contempt to other nations. We do not our duty to the king, and the nation, and what all the world expects from us, if we examine not the Miscarriages. But before we can know where to lay the fault, it is requisite that we have the Papers before us. I move for a short day to consider the Miscarriages of the Fleet, and Navy-Affairs.

Mr. *Charles Montagu.* I like what is moved; and for what day you will appoint, I am as ready as any body. I am one of those that think you have been downright betrayed. I know not who did it, but am sure it is strange that the French king should leave 500 miles of his shore exposed, and draw off all his fleet: that plainly shows he had some good assurances. But I would not postpone the greatest matter. The king says, 'the enemy is stronger than he considerably in land-forces,' and that was the only reason of his disappointment. Some of our countrymen did not behave themselves so well as they should. But, being deserted by the Foreigners, it is no wonder that they shifted for themselves, for their own safety. I have observed, that the English are contrary to all the world; they are frighted into their wits. A party was suspected formerly to carry on popish designs; another complied with the present temper, popery: whereas, then we had no Deliverer. We must not expect another Deliverer. I wish gentlemen would lay aside all little heats, and fooleries, and lay their hands to the great affair. If we do not suddenly provide for our safety, the enemy will be much forwarder than we. I hope we shall be quicker in our resolutions. Several things retard our proceedings: one is, Places. A noble example lately of my Lord Keeper, in disposing his Places! I wish all Places were well filled, and that men would not thrust themselves into Offices, and never look after them. It is high time to come to some Resolution. We have more enemies than we had last year. I move, for your reputation, that you will resolve to support the king, and defend the government, and assist them in a parliamentary way for carrying on the War with France, and supporting the king.

Sir *Tho. Clarges* reads part of the king's Speech reflecting on the Miscarriages.—I am sorry any body should be so unhappy as to prostitute the honour of the king. Where the reputation of the king sinks, the king sinks with it. Unhappy ministers that advised the king to head such armies, as are not for his reputation! If they think they can be governed without him, they may say they will not be governed with him. Kings formerly had their council with them in foreign Expeditions. This may be the last meeting in this assembly, if we provide not better for our safety. Littleton told you, 'That, formerly, the Pensioners perverted good laws;' pray God it is not so still! I find some, who arraigned the former times, now in Offices; generally such people are distrusted. The Trade of the nation is gone, and Land will be worth nothing, if Trade be not supported. By trade, London makes up your rents. I always told you, that our safety is the Sea. In 1692, the Navy was two millions in arrear. It was said heretofore, 'That we should be Monarchs of the Sea;' but for all I see, we are like to be vassals, and bow to other nations. I hope you will particularize the Miscarriages, You have lost a million of capital stock in the city of London, besides the ships you have furnished to your enemies. It is come to a moot point, whether we shall save England or Flanders. I think we are undone, if we go not by the ancient way of parliament, to address that our Grievances may be redressed before we give Aid; which is the natural way of aiding the king. The king told us, when he came over, 'That we should make such laws, that we should never fear our liberties;' but God knows, we are betrayed; and if there be such unhappy men to take Money to betray their country, find them out. We have some resemblance to the first Christianity, where were twelve Apostles, and one of them was a Devil: he kept the Purse; for thirty pieces of silver he betrayed his master: and that will betray us, and by that we shall lose all our privileges. I should enlarge farther, but I hope gentlemen of greater abilities will supply me: But I move, as before, for a day to consider the Miscarriages of the Fleet.

Sir *John Thompson.* All of us come here full of affection to serve our king and country; but it must be confessed, that never parliament was under such discouragements as we are; but would it not grieve any Englishman, that

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the treasure of the nation should be spent in such extravagant bounties, and Pensions to Foreigners? A man must no more talk of Miscarriages at court, than of news in the camp. Do but consider the last session; our Bills for the Security of the Nation, all proved abortive. Though we have had so many gracious promises, they all languish under disappointment of performances. Have we not seen preferments, as if the displeasure of this house were the greatest letters of recommendation? Lord Torrington was questioned, and tried for his life; yet he brought home the Fleet. Admiral Russel fought and was accused when he came home. I hope, whatever is said abroad, that persons will not be so mollified with Places, as to betray their country.

Sir *John Lowther.* Upon the deliberation of the house all will depend. Miscarriages have been unfortunate, but must be proved, and then I shall concur to punishments. But do not judge men before they be heard. They are said to be Judas's, 'because they carry the Purse.' As to Offices, can the nation subsist without Offices? If you can find honest officers, encourage them; if otherwise, prove them, and make them examples to others. What will men think of us, if, in these great exigencies, we complain, and no more? The Treasury have had no assistance from the Commissioners of Accounts. When we consider, that the last money came short; we can never answer it to our country. We in our ports, when the enemy was at sea! I am indifferent which question you put first; whether you will examine the faults, or give the king Supply. Do all the parts requisite to the government, and take the questions together, and I hope you will not preclude any thing; but, amidst your discontents, do not ruin the nation.

Sir *Edw. Hussey.* In the last session, the Triennial Bill was rejected: I would know who advised that, and the delay of the Smyrna Fleet? Former parliaments had Grievances redressed before they gave Money. I move to consider the Miscarriages of the Fleet last Summer, &c.

On the Miscarriages of the Fleet.

Sir *Edw. Seymour.* It is a great dissatisfaction to enter into this debate. One consideration weighs more with me than all; without Supply, for support of the Government, we are lost. Here is an Account prepared for you, to see that the Money is not mis-spent, for the use of the nation. I say, with the greatest sadness, that we have lost the discipline of the Fleet, and, I am afraid, our honour too. The house will never go along chearfully, till enquiry be made into Miscarriages. Words have done no good, of a vigorous War against France; but I fear it may be termed a vigorous war against England. I move to add to the question, 'That we will support the Government to the utmost of our power.'

Colonel *Titus.* A great sum was given last year to set out the Fleet, which brought home nothing but infamy. The Fleet should have convoyed the Turkey fleet out of danger, and it convoyed them into danger. They fiddled and danced at Torbay, and we must pay the music. If you enquire not into these Miscarriages, you will be as popular a parliament as the fleet is a fleet. But 'be angry and sin not,' and revenge the quarrel upon yourselves. Your case now is to satisfy your justice, and provide for your safety at the same time. But it is an affront to the government to take care of Trade, and none of the government; therefore, I would put in the words, &c.

Sir *Christ. Musgrave.* Shall it ever be said, to the disgrace of the house of commons, that we do not examine Miscarriages? The affections of the people are not changed to the king, but accidents in government that prove unfortunate. You are told, 'If you have not a greater care than formerly, your Money will be of no effect;' but let us not be ensnared by any Vote to take away the freedom of debate. I conclude, 'For the preservation of the Government, and Trade of the nation.'

Mr. *Howe.* I think none so simple as to think an English parliament will not support an English government. The words offered for the question are so large, they include all things. I will not say, nor any man, there are not Miscarriages; but they must not be called misfortunes. I think the opposition of the two violent parties is equally honest, and equally well intended to the government. I care not which is uppermost; if they be uppermost they care not what becomes of the government, if they have safety in their own animosities. It is to this we may attribute all our misfortunes. Let us show the nation, that it is worth preserving. As to the faults of the Fleet, one part lies upon one, and another upon another. Prop the building first, and then enquire where the defect is.

Resolved, nem. con. "That this house will support their Majesties and their Government, and will, on Wednesday next, enquire into the Miscarriages of the Fleet the last Summer; and take into their consideration the preservation of the Trade of the nation."

Ordered, "That the Commissioners of the Admiralty, who are members of this house, do, on Wednesday next, inform the house, why the Streights Fleet was stopped till the main Fleet went out. 2. That the Admirals, that commanded the Fleet last Summer, and sir George Rooke, and the Turkey Company, or such as they shall appoint, do attend this house on Wednesday next."

Debate on the Miscarriages of the Fleet.] Nov. 15. The Turkey Company, according to order, gave an Account, at the bar, of the Orders for the sailing of the Fleet, and the number of Dutch and English ships for the Convoy.

Sir George Rooke informed the Speaker by letter, that he was very ill, and could not at present attend the house. So he was ordered to attend, together with the other Admirals, on the 17th.

Nov. 16. Mr. Foley, from the Commission-

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ers for taking the Public Accounts, presented to the house a State of what Money had been given for maintenance of the Fleet during the War, and what they had received thereof.

Sir *Tho. Clarges.* Misapplication of Money by assignments. But one reason may be, the Treasury cannot resist superior commands; and one great reason of this misapplying is, the Commissioners of the Treasury are not upon oath. Formerly, in king James 1's time, there were Commissioners of the Treasury, till a Lord Treasurer was named, but now not to be upon oath, and to have the disposition of all the king's treasury! I hope you will consider of it. At the grand committee for the Fleet, I believe there was a million owing to the Navy. All issues are for service done, and to be done, and that makes the confusion. I hope, there will be remedy for the future. Many of the seamen take service from the king of France. If some remedy be not taken to provide for and encourage the seamen, they will desert.

Mr. *Montagu.* I suppose no man can expect any great matter from a Paper read, as has been said, tumultuously. I have been but two years in the Treasury, but I find the great occasion was, the first year of all, a great debt was left upon the Navy.—And so went on upon that subject.

Several of the Treasury, and Commissioners of Accounts, spoke to it.

Nov. 17. The Turkey Company presented to the house a Narrative, in writing, of what they declared on Wednesday at the bar of the house.—Lord Falkland presented also several Papers relating to the Instructions and Orders concerning the Turkey fleet, &c. And the Admirals, that commanded the Fleet last summer,* being called in, delivered the results of the Council of War, and a Narrative of their Proceedings, &c.—Sir George Rooke, being so lame of the gout, that he could not stand, was brought to the bar in a chair, where he delivered a Narrative of his Proceedings, &c. And (in respect of his indisposition) he was then dismissed for the present.

Resolved, "That, upon examination of the Miscarriage of the Fleet, and the loss the Turkey Company hath sustained this Summer, this house is of opinion, That there hath been a notorious 'and treacherous'† mismanagement in that affair."

Nov. 18. Lord Falkland presented to the house an Estimate of the Charge of the Navy for the year 1694, amounting to 2,346,132*l.* for 118 ships, and 40,000 men.

Resolved, "That 400,000*l.* be granted to their majesties, towards a Supply for Maintenance of the Fleet for the year 1694."

Nov. 20. Lord *Falkland.* We have now an Admiral, and are without a Secretary. If Mr. Russel be put in, the Secretary (Nottingham) will go out. The Commissioners of the Admiralty sent for an account of the execution of their orders; and that account was not sent for a long time after. They ought either to have executed their orders, or sent word why they did not. Two things were to be considered by the Fleet, the coast of England to be guarded, and the Streights fleet. They knew nothing of the Mediterranean fleet, nor the Brest fleet; and so the admirals did neither. If orders were found impracticable, with respect to the Board, they ought to have had notice. The council of war thought them impracticable: if they were ill orders, why was it not represented? If good, why not obeyed? The loss was a great misfortune to the nation, and all by mismanagement. It was a great charge for sir George Rooke to be sent away without orders. Such a chain of causes all along, that I cannot think all this was done by chance. If some course be not taken, all will be lost, and it is no where to be done but here. Those that sit at the helm, how can they serve the kingdom and king James too?

Ordered, "That the Admirals do attend tomorrow."

Nov. 21. Admiral Killegrew gave an Account of what lord Falkland charged, and Rutter's Information was read. He was ordered to be sent for, and confronted with the Admirals.—Captain Kerr, who took Rutter. 'He gave no Account to the Admirals of the Brest fleet being out, nor to me, nor to any of my pany. I took him pretending to exchange prisoners at Nantz, but he brought Currants from Nantz,' &c.

Sir *Tho. Clarges.* By the Act, there is to be no correspondence with France, and this Rutter was employed to exchange prisoners, and then falls to trade with France, with currants from Nantz. He tells you a story, but that has little weight upon me, if he be not a man of credit. How many have sworn in Westminster-hall, and yet stood in the pillory!

Mr. *Hampden.* I have observed, that an unreasonable defence, as well as an unreasonable accusation, will prejudice a man. I never saw this Rutter, but you have his Examination, and his Answer, upon oath. It seems, it is thought slight because Rutter gives it. I observe, that it is strange, he should be so long with the admirals, and not utter six words of

* Viz, Adm. Killegrew, sir Ralph Delaval, and sir Cloudesley Shovel, Adm. Russel having been dismissed.—"Killegrew and Delaval were thought so inclinable to king James's interests, that it made some insinuate, that the king was in the hands of those who intended to betray him to his enemies. For though no exception lay against Shovel, yet it was said, 'That he was only put in with the other two to give some reputation to the commission, and that he was one against two; so that he could neither hinder nor do any thing.' The chief blame of this nomination was cast on the earl of Nottingham." Burnet.

† These words were retained in the question, on a Division, 140 to 103.

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the Brest fleet being out; which makes me think him not so candid and ingenuous as he should be. As I would accuse nobody, so I would condemn nobody, hand over head.

Sir *Tho. Littleton.* Rutter might hear at Nantz that the French fleet was laid up. He says, upon oath, 'It was not so much as enquired by the admirals, what became of the French fleet.'

Mr. *Montagu.* I would have Rutter's Information read, because some heard it not. It was a little too forward, to accuse Rutter before you heard him.

Mr. *Foley.* I have read Rutter's Affidavit, and I think it is the fairest way to have Rutter and the Admirals face to face, and then you are ripe for judgment. I would send for Rutter presently.

Rutter's Information was read, and he was ordered to be sent for.

Sir *Edw. Seymour.* Since observation has been made, why the admirals did not confront the evidence sooner, (I would ask,) whether they had any notice that such information was made? Without the best evidence in the world, I would not have the Admirals discouraged in their service.

They were ordered to attend again the next day.

Nov. 22. Mr. *Papillon.* The Admirals had nine weeks provision. The captains give still less provision in than they have. They have had, upon all accounts, rather more than less.

Sir *Christ. Musgrave.* You cannot have who is in the right, or who is in the wrong, till you have the Account. There should be an indenture betwixt the purser and the victualler, who understands always the purser. There has been great clamour, that they had no victuals.

Mr. *Montagu.* You have delivered your opinion, 'That there has been a traiterous Mismanagement, &c.' I think it proper to hear the Admirals; a thing so much discoursed upon! I believe the admirals are ready to give you account. Rooke's misfortune was the 17th of June. They came not till the 22d; and might have had beverage upon the Portugal coasts.

Col. *Cornwall.* They were ready, with a fair wind, from the 6th of June to the 14th. Why so great a fleet as 75 capital ships, and make no use of that wind to go over to the coasts of France? M. Tourville was not ready to come out. This I take to be the ground of all, not hindering the enemy from coming out; and, instead of that, did not sail till the 3d of May.

Sir *John Parsons.* This will appear a lame excuse of the Admirals. They were ordered four months provisions.

Mr. *Wharton.* I am of opinion with Parsons, 'That want of Victuals is a lame excuse.' I would ask the Admirals, when they parted with Rooke, whether they took any survey of what Provisions they had on board?

The Admirals Killegrew, Delaval, and Shovel at the bar.

The *Speaker.* What day did the three Admirals go on board the Fleet?

The *Admirals.* "We beg the favour to have the questions in writing. We went on board the latter end of April."

Question. From April to the 22d of May, what survey was taken of Provisions?

Answer. "The ships were not all together; they were in several ports. We cannot make Answer to the survey, till we look over our Papers. There were 75 great ships at Spithead, on the 6th or 7th of May. It was the 13th or 14th before the Dutch came in."

The *Speaker.* The house is informed, that, from the 6th of May to the 14th, the wind was fair to come before Brest, to prevent the French coming forth.

Answer. "Our orders came not to our hands till the 20th. So great a number of ships do great mischief to one another, when the weather is not settled. Our orders were to take Rooke into our company. He answered, 'He wanted some Provisions.' He wrote to the Commissioners of the Admiralty, and we could not sail till the 30th. The wind was against us. Several ships were ready, but they wanted provisions. But it can never be expected, that we should keep account of our provisions. We issue out our orders to every flag, and they to the captains, who return the wants to the Admiralty-board."

Question. To what time did the Provisions last?

Admiral *Killegrew.* "It is impossible to give an answer to that. I hope this house will exact nothing impossible from us. We came to Torbay the 21st. We cannot carry numbers in our heads. We sent a particular account to the Admiralty of all ships, from Torbay, when we got all our ships together. We took account of the captains, two or three days after parting from Rooke. For account of Beer, we cannot rummage the ships; for other Victuals, we took account but in part."

Question. When you were surprized that your Instructions were contrary to the Council of War, did you represent it?

Answer. "We received our Orders the 20th, and called another Council of War, and resolved to sail the 24th; but the wind was not good; and hearing nothing from the Council, we supposed them to be their orders. We took it to be our duty to obey orders. We thought it not fit to capitulate. When we had positive orders we must obey."

Question. Why did you part with the Turkey Fleet, before you knew whether the French were come out?

Answer. "We had Instructions to go as far with Rooke as we thought necessary; and the Resolution of the Council of War was our opinion. Though we knew the French Fleet was out, yet we were to obey orders. We find we are mightily blamed for our orders to Rooke. All our opinions were, that it was an

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improper order, and not to be executed. We all desire to give our Answers to the questions in writing."—They withdrew.

Lord *Falkland.* They answer, 'They had no Orders till the 19th of May.' It is true, there were no orders till then for Rooke; but they had orders, in March, 'That they should do their best to annoy the enemy.' They tell you, 'They had no account of their Provisions but at random.' But did ever men go to sea, without knowing what provisions they had on board? It is easy for a man to know from the pursers. They tell you, 'They were surprized with the Orders of the 14th;' and they say, 'It was not their business to capitulate.' They had the Turkey Fleet in their hands. They say, 'Their orders were not practicable;' and yet not represent it! We never heard this the 15th of May, nor the 23d. We never heard of it till July. How could we give those orders, without knowing whether the French Fleet was out? There was no impossible thing required of them, the wind and weather permitting. Their fault was, they did not know whether the French Fleet was out, and not they that gave the Orders.

Sir *John Parsons.* This might have been easily rectified, without rummaging the ship, by the purser's Indentures in kind, credit, and ready money. I was formerly a commissioner of the Victualling-office, but now a contractor. I thank God, I was no commissioner during these miscarriages.

Sir *Christ. Musgrave.* I have heard the Commissioners of the navy make great complaint of the Victuallers. You are told of 'credit, and ready money.' I think it no great 'credit' for Papillon to imitate Parsons. There is something of this that we do not know, which I would enquire of from the commissioners of the navy. I would know, from Falkland, whether all were ordered to go together? I think it was the opinion given by all the flag-officers, to deliver to the Admiralty what their opinion was. Upon the 19th comes the Order, by his majesty's command, before whom this opinion of the council of war was. I wonder that an order came, and no notice taken of their opinion, a thing of so great weight! Upon this order, transmitted to the Admiralty, they conclude to conduct the Turkey Fleet to Ushant. Now, in business of so great moment, why were not their directions from the Admiralty? There were no Instructions before the separation. But I think it was to justify themselves, come what will. I think the order was a very lame order. If the resolution was not well grounded, they ought to have had a better.

Lord *Falkland.* They had full power to sail when they thought fit. We have no reason to think the orders were not practicable, because they said they would be executed. We could not know whether the French Fleet was got out; but they should have known it. This is only that we should be kept in the dark. This shows they would neither obey the orders, nor represent them.

Mr. *Smith.* Supposing the orders ambiguous, they never sent to desire those orders to be explained; but sailed away without it.

Mr. *Montagu.* You have examined the Admirals to one particular point. The excuse, in defence of the admirals, is, 'That they had not Provisions:' if they had, then it is their fault. Pray first consider that. You have asked the admirals several Questions. They make exact Answers to some things, and are short in others. To take account of provisions, surely, is not the part of an admiral. If they had had their quantity, they might have fought the French fleet, and then any country would have given them credit. I propose this question, 'That there was a sufficient quantity of Beer to convoy the Turkey fleet out of these seas.'

Sir *John Lowther.* None of the victuallers say the Fleet had four months provisions. When the lords of the council went down to the Fleet, they were so far from being victualled, that they were still carrying on board.

Lord *Falkland.* The admirals confessed they had 48 days Beer on board.

Mr. *Foley.* I find, upon the whole matter, that one third of the victuals were not delivered in kind. They had all other provisions; but the Beer is the question. The Return made by the pursers to the Admiralty, was 48 days provision. They might have fallen in with Rooke, at that time. But I observe that this survey of the Beer was not till the Admirals parted from Rooke. The mischief of allowing this way of victualling will be of great inconvenience. Because the victual was so strait, they stayed till it was too late to go. The victuallers had two men of war to convoy them to Plymouth; but a French privateer took two, and they looked on.

Sir *John Parsons.* They had express orders to victual for four months. As soon as they came to sea, they put six men to four mens allowance; which might have been victual till Christmas. But I am apt to believe there was not so much. The whole of the Beer, for four months, was put on board the ships for the Descent.

Mr. *Finch.* Give me leave to remind you, how this debate began, and how it has been proceeded in. 1. You have adjourned hearing Rutter. Then the Book of Orders for Reasons why they stayed at Torbay, and did not go out, pursuant to orders. Then the state of the victuals in May. Then you called in the Admirals, and asked, Why they stayed from the 6th to the 10th, and did not go out? '1. They were not under orders.' '2. The line of battle was not full.' And, '3. They wanted victuals.' I remember, it was said, 'They were under general orders to annoy the enemy;' if they had advice of it, then how pursued? When that comes, you have opportunity to search that to the bottom. This is a question that involves the consideration of the whole matter, which depends not upon the Victual. How far they were to go to convoy them from

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the Brest fleet, and Toulon squadron; whether they were to go to Cadiz, or how to proceed with respect to the Toulon squadron, you will understand better, when gentlemen please to open that matter. This does accuse, or excuse those persons. As to the Victuals, the matter is of weight. Now whether these ships had reason to stay in Torbay, for want of victuals? Therefore have the Commissioners of the Navy to give you account what Victuals were on board. The question is not, what Beer was on board them for Lagos-Bay, but whether by order, they were to part from the Fleet at Cadiz, or go farther.

Sir *Edw. Seymour.* I make no doubt but their Orders were 'to annoy the enemy,' if they met with no opposition but wind and weather. But as to the Victuals, when setting out the fleet, I called for an Account; and the victuals were said to be for four months; but now it is explained, 'that a third part was in specie, a third part in credit, and a third part in money.' As long as this is so, it is impossible to say what provisions were on board. If they went off from the coast, at sea they could neither have victuals for money. Therefore have the Commissioners of the Navy before you and know what was on board in specie. What I mean is, the columns of Indenture between purser and victualler. If so, then the victual in specie is only for five weeks.

Sir *John Lowther.* See the Account of the Victuallers, and the Survey taken on board: then you will see, by comparing, to make a judgment. I agree with Wharton, 'that there are several other things as material;' but as for this question, you are not ripe, by any means, for it; you have not the matter before you, the gentlemen have better information than myself, that are ready for this question about victualling. The Admirals deny the matter of fact, and that is not yet rectified.

The *Speaker.* The objection against the question is, 'That there is not yet given in what Victuals they had in specie.' What Beer they had at Torbay you have not. The question is, 'Whether they had sufficient Beer to convoy Rooke out of danger?'

Mr. *Boyle.** You have not yet Evidence to give a Vote upon; and therefore put the previous question.—To proceed on Monday.

Nov. 27. The Commissioners of the Navy being called in, said, 'The Fleet had forty-six days Beer.'

Mr. *Howe.* I would not give my vote, like the Admirals, that go to sea with oracular Instructions.

Mr. Comptroller *Wharton.* Whether the admirals had Beer enough to go to sea, to carry the Smyrna Fleet out of danger? Whether they had provision enough to keep out to sea, to convoy the Smyrna Fleet out of danger? Whether they obeyed their Orders like wise men, and honest men, to leave the Turkey Fleet before they were out of danger? is your question.

Mr. *Finch.* Is this a proper question, and fit to be put? If they had no orders, and knew not where the French fleet were, it is not the question. The meaning of the question is, having 39 days provision, to convoy them out of danger of the Brest-fleet. But they were not out of danger of the Toulon squadron. Had they provision sufficient to convoy them from the Brest-fleet, and Toulon squadron? So this question supposes they had orders, and that they knew the French fleet was in Lagos-Bay.

Mr. Solicitor *Trevor.* One excuse of the Admirals, is, they wanted Victuals. Consider what the Admirals have for their justification! The want of Victuals. This question will justify the victuallers, but not condemn the admirals. But when this question is over, then it is a proper time to enquire, whether that proportion was sufficient.

Mr. *Montagu.* When you adjourned the debate, it was because you had not the whole matter before you. If this question before you be not proper, no question can be proper. When you find they had sufficient Provision, &c. the next is, what order? They had sufficent Provision to prevent France from over-heading us again, and they might have done it. Lagos is a great and deep bay, and they might have preserved the Smyrna fleet from danger; and the whole fleet too.

Lord *Falkland.* There is more concern in the question than the Admirals. If they had not provision sufficient, the fault is somewhere; if they had not Orders somewhere else. Rooke's fleet fell into the French hands 11 days after the Admirals left the Fleet.

Sir *Robert Rich.* The most eminent merchants never feared the Toulon squadron. Rooke had strength enough to fight the Toulon squadron. Most of the opinion of the merchants was, that the count D'Estrees was as much afraid of Rooke, as Rooke of him.

Sir *Wm. Whitlock.* I wonder the Admiralty should not give directions to convoy them out of danger of the Toulon squadron, as well as of the Brest; they, it seems, thought as much of the one as the other.

Resolved, on a division, 188 to 152, "That there was sufficient Beer on board the main Fleet, when sir George Rooke separated, to have convoyed sir George Rooke's squadron, and

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* "Youngest son of lord Clifford, and grandson to the first earl of Burlington. He was naturally endowed with great prudence and a winning address, and distinguished himself so much in parliament, that he was made chancellor of the exchequer by king William, and was much in favour with that prince. He continued in that post till 1707, when queen Anne appointed him one of her secretaries of state. On the accession of George 1, in 1714, he was created lord Carleton, and was soon after made lord president of the council. He died unmarried in 1724." Budgell's Memoirs of the Boyles.

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the Merchant-Ships, out of danger of the Brest fleet. *"

Debate on the Bill for more frequent Parliaments] Nov. 23. An ingrossed Bill for more frequent Elections of Parliament, (brought in by Mr. Brockman) was read the third time.

Sir *John Lowther.* Declare the matter of the king's negative voice, and let the word 'holden' stand.

Mr. *Harley.* I am for the word 'Parliament holden,' because you are possessed of it; and it is not for the interest of England to part with a word, in so many laws made use of.

Sir *Robert Rich.* A doubt arises from them against the word, that the king's Prerogative of dissolving Parliaments is taken away; but if it be only meant and intended that a parliament must be every year, if others intend something else, let them say so.

Lord *Falkland.* This Bill is of great consequence; the intent of it is good, and to have frequent sessions of parliaments, and a new parliament. I am for the intent of the Clause. Instead of the word 'holden,' I move, that it may be a parliament to meet once a year, at least.

Mr. *Montague.* To the word, 'declare.' If it be the intention for annual sessions, give me leave to offer my opinion why I am against it. Though those acts mentioned do enjoin it, yet there have been no complaints for not calling parliaments so frequently. In James 1's time, when the commons did assert all their rights and liberties, they make no mention of these laws. But the constitution of the nation was quite otherwise then, for the parliament judged causes, and made explanations of laws, upon the desire of the judges, which now they do in Westminster-Hall: But to determine to meet actually, whether there be occasion, or not, I think not proper.

Mr. *Harley.* I keep strictly to the word 'declare.' You have been told that no complaints have been made, that those have not been annual sessions; but there were complaints for want of parliaments, and so enacted 50 Edw. 3, 'That there should be annual parliaments. There was an act already, and it should be observed.' The bishop of St. Asaph opened the parliament from the king—That there were not frequent parliaments, but as for that of king James 1, they tell the king, 'that if kings were immortal, they had no need of such laws,' but they proceeded farther; 'they know not what kings may come, therefore to provide against oppressions.' † The Prerogative always increases. but the Liberties of the People are at a stand.

Sir *Edw. Seymour.* I could wish our condition such, that we might support the government, without parliament. I would willingly bate my share in parliament to have a share in that condition. I am not very fond of these words, because we had them 3 or 400 years ago, and are never the better for them. Is the prerogative of the crown less than in Edw. 2's time? At that time all the laws of a parliament were but one law, in Items. In those times the king took one and rejected another, and so the Judges were in doubt, what passed for a law, and what not. Some laws that passed are not in the Roll. Will you put in a word that may be doubtful, when there is no need of it? I know not what improvement may be made, in time to come, of a word doubtful.

Sir *Charles Porter**. I think it absolutely necessary that this be put to some certainty; else parliaments would be in power to sit as long as they please, and the king not have power to prorogue nor adjourn them. If you pass this Clause without a plain explanation, it may be of ill consequence. I would so explain it, that it may not be a question hereafter. Sometimes the crown, and sometimes the commons, differ in expressions of words, and this is a word that may be fundamental. I move that this may be explained, so that what you intend may not encroach upon the prerogative of the king.

Sir *Christ. Musgrave.* You have no Clause before you, only the word, 'declare:' that word is only moved. I see no reason of the difficulty why you should not insert the word 'declare.' Is it not always meant, you have a right when you declare? It was a right the subjects had to frequent parliaments; and if you now enact, and not declare, I fear your right commences from that time only.

Mr. *Palmes.* Frequent Parliaments, and the Dissolution of this, was the thing I aimed at before, and so I do now.

The Clause was rejected 129 to 89. And the Bill was rejected 146 to 136.

Debate on the King's Speech.] Mr. *Hampden.* You have considered the Fleet, and another part of the king's Speech, very material, viz. the Land Forces, is behind. Unless you grant a Supply, I know not how you can support the government, the Treasury is so low. Nothing at all has yet been said of it. It is so necessary to have a consideration of it, that I move, That you would grant the king a Supply for the land forces.

Earl of *Ranelagh.* I second the motion. I must tell you, the army is in very ill condition. In their quarters in Flanders they have no money, and no credit.

Sir *Tho. Clarges.* A supply is moved for, but I cannot allow we have an army in Flanders; you have no obligation to have an army in Flanders. Vast sums have gone thither, which can never return; besides our loss at sea. If the privy council advises not the king, we must do it. Had we attended the sea, the French could have done little in Flanders. It goes to my heart that the king of England should be at the head of a Confederate Army.

* The words, "and the Toulon squadron," were rejected, 191 to 165.

† See vol. 1, p.1361.

* One of the lords justices, and lord chancellor, of Ireland.

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I hope that, when it comes to be debated, you will think the army is for defence of the kingdom. We had no assistance in conquering Ireland from the Confederates; we needed them not. The year's expence of Cromwell's Army was but 600,000*l.* If we come to that pass that our army cannot preserve us, we shall be a despised people. By the fundamental law of England, no Englishman can be forced out of England, without his own consent. Men have been found sent to the Tower, that would not go beyond sea, and if well proved you might impeach the lieutenant of the Tower. In 1672, France took three of their provinces—The duke of Brandenbourg sent then 30,000 men, and now but 6000. They took the three provinces again, and made a good peace for themselves. The Hollanders rather get than lose by this war. They provide for our army, and their own too—butter, cheese, &c. If two millions go out of your main stock, what will become of you? Let us not talk of giving money, and not know where to raise it, to the derision of all the world.

Sir *Edw. Seymour.* Time is too precious to delay. I wonder what Clarges understands the parliament should make exceptions to. What these Land-Forces are, and how to employ them to another purpose—I move, that a supply may be granted for the Land-Forces.

Col. *Cornwall.* I ask pardon if I do not very well understand the question. If you mean to supply the Army as the fleet, I can come up to it. I desire they may have 3 or 400,000*l.* for present supply.

The *Speaker.* You cannot go into that motion without going into a grand committee.

Sir *Christ. Musgrave.* You can only make a motion, and then consider whether you will go into a committee of the whole house.

Sir *Tho. Clarges.* Seymour said, 'I spoke little to the purpose.' I am so used to reflections that I take little notice of them. When lord Ranelagh brought up the Forces to be 60,000 men, I thought it my duty not to let that go so. I observe that, when the Apostles spoke the truth of the Word, it was opposed by the Silversmiths that made the shrines for Diana's temple.

Earl of *Ranelagh.* Though he makes that comparison, I am sorry for reflections. As for the 60,000, I said nothing of 60,000 men. You voted 54,000 last session. I said, 'the forces in Flanders are in a starvaing condition for the present.' What is proper to be done now, is only, That a motion being made, &c. this house will consider of that motion.

Debate on the Miscarriages resumed.] Nov. 29. John Rutter was called in.

The *Speaker.* This house has been informed that you can give account of the Brest Fleet, &c.

Rutter. "I have given my Narrative upon oath made to the council. When I was before admiral Killegrew, taken as a prize, for taking in currants from Nantz, without orders, I said, 'I had done nothing but what I had orders for the 7th of May.' In the morning I discovered six of the French fleet, at anchor, and heard a gun to give signal. I was carried before the admirals, and gave account of 15 sail of French, and four more sail. I saw that nobody took notice of what I said. He took my pass from betwixt his fingers, and bid me withdraw. Killegrew was hot upon me about my loading. Shovel did ask me something, what it was I cannot say; I believe something of what I did see, and discover. He took my pass, and so I did withdraw. Capt. Kerr was by, at some part of it, but his business was to get me as a prize, which would be worth 2000*l.* to him. He said nothing, but 'that I must deliver my loading to the prize-office.' Capt. Kerr met me on the deck, when I did withdraw; only his lieutenant came on board my ship. I am not able to say what passed from Kerr, but being distracted about my prize, I cannot remember. I met some coming out of the channel, I suppose the Smyrna fleet. I told it my ship's company. I am not able to say whether I did discourse of it to capt. Barker, captain of the St. Vincent fire-ship, but I supposed I might say something to him. It was spoken often amongst my ship's company. They might have some prizes coming out of Dunkirk. I observed some ships coming out of Brest, just as the sun came from the horizon. I had 11 sailors in my ship. I had two more that were sick in the cabbins. I told my ship's company, who were most sick and dying, I would make all the haste I could to Conquest-Road. I met with a privateer, a tier of six guns and 10 patteraroes. The lieutenant told me he was chased the day before, and if they had followed, he must have been taken. I never related any thing to capt. Kerr, that the Brest fleet was sailed up. I came ashore at Portsmouth the 14th of May. I came not up hither in three weeks. As soon as I came up, I went to the prize-office about my cargo of three or four ton of currants taken from me. I was in the prize-office, with Mr. Parkhurst, and told him, in the garden, the same I have done here. Major Churchill was concerned in the cargo, and one Mr. Alston. I was at Portsmouth some days after I landed. Mr. Alston can give account of the time. I did sign my examination before the council. No person whatever has been with me to make good this examination."

Mr. *Parkhurst.* "There was a sale of these currants on the 14th. Hearing what he had said of the French fleet, I was willing to hear him, and he gave us this relation, as you have heard. All his men were sick, but three, and he had not men to sail his ship. He got one."

Rutter. "I told capt. Kerr, 'That some ships were stirring, and if I did not make sail, I must bury my sick men.' I suppose then the French fleet were out, and I told my mate, Castle. They came out of Nantz river on the 6th, and I saw this on the 7th. All my company, but two and a boy, were buried at Nantz. Capt. Kerr would have pressed my men, but

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I had none, but my two prisoners that I brought from Nantz, and two men and a boy. The rest were all sick. My ship was 120 tons."

The *Speaker.* Why did not you discover this intelligence to others besides Mr. Parkhurst, and major Churchill?

Rutter. "I do not remember. I have been a seaman these 30 years, born in the Isle of Thanet, by the North Foreland. I have been master, and mate, 20 years and upwards; have been eight years employed by sir Wm. Scawen, and alderman Lucy, and others. I have traded in the French trade 21 years and upwards. I have served 20 years apprentice to a fisherman, and have my neighbours ready to give account of my conversation. Several neighbours and merchants can testify of me. I saw 15 sail, and four more coming out of Brest to windward, before the wind, almost together."—He withdrew.

Sir *Wm. Scawen.* I have known Rutter these eight years, and he has always served me very honestly, and has the same repute upon the Exchange.

Serjeant *Thurban.* I have known this Rutter these 19 years. He lives in Ramsgate within the jurisdiction of my borough. I have had no dealing with the man, but I always have heard a good character of him. I have heard this from his neighbours, and all give credit to his information.

Sir *Samuel Barnardiston.* I enquired after him on the Exchange, and have not heard a better character of any man.

Col. *Lee.* I know not whether his character will answer your expectation of gentlemen. Upon the Revolution he behaved himself bravely. He applied himself to his owners to be a privateer, who could never get any account from him, and so were not willing to let him be a privateer.

Sir *John Fleete.* I have no particular acquaintance with the man, but I have heard of him, to be an honest man, by all that have dealt with him.

Mr. *Machell.* I will tell you a fault that perhaps this man cannot get off from, viz. that he took lord Peterborough prisoner.

Mr. *Howe.* I shall only make this observation, that I have known many pass for very honest gentlemen, and, in this corrupt town, five or six years ago, they have proved otherwise. I reflect not upon the man, but let every one judge.

Daniel Castle. "I was Rutter's mate. Under St. Matthew's point, the 7th of May, Rutter said, 'He saw some ships at anchor, and some under sail, and heard a gun for more ships.' Rutter ordered to loose the main-sail, and steer, for fear of being stopped. I saw the ships, when I was with Rutter on the deck. Hearing the guns fired, we made all the sail we could. We took them to be part of the French fleet. I heard 25 guns fired, as more came out. The two prisoners that were aboard us, saw it. They assisted us in bringing home our ship, and a carpenter, a prisoner; the rest of the ship's crew were sick and weak in the cabins. We took them to be a squadron of the main fleet. I did not acquaint any person with what I saw, but believe my captain did on board the Lenox, and the flag. I remember captain Kerr came on board our ship, but I was not well when he came on board. There was such a discourse in France that their ships were unrigged. But they were pressing men. The Lenox took us as prize, and carried us to Portsmouth. A French privateer, off from the Lizard, told us he had been chased, and that either his mast, or yard, was broken, but I heard nothing of the reason why the Lenox did not take him. I was carried on board the Lenox, and the two prisoners. I was never examined, nor ever acquainted any with what I saw, nor had any discourse. I came ashore on May 14. I was three days on board the Lenox. I discoursed with no man there, and came to London. Our ship was 100 and odd tons; we had eight or nine men to sail her."

Major *Churchill,* of Portsmouth. "Rutter has been employed by me to carry French and English prisoners. I asked him 'what was the news?' He told me, 'the Brest squadron was out: five were at anchor, and four more were coming out.' He said, 'He was carried on board the admirals, and gave them account of it.' He told this to me, and 20 more, at Portsmouth. I believe it ten days after his coming, and soon after the lords of the council went away, I did tell this to abundance of friends, and relations, I had in town. Rutter told it, I believe, 20 times, in company of captain Barker, and Mr. Alston. I have known Rutter above nine months. He observed, 'That 15 more French ships were coming out, and by firing their guns he believed they might be 40 sail coming out.' This discourse he had in my compting-house, when he came from Portsmouth, as I was writing. I heard him speak it upon the Exchange. About the 7th of May he saw them come out of Brest. He never made but one voyage for me before. He performed his voyage very well. A broker brought him to me at first; he was of good credit, and employed by merchants, owners of ships, for several years. He was on board the Britannia at Spithead, and acquainted the Admirals with all this matter that he has said; the admirals took little notice of what he said, only sir Cloudesly Shovel asked him several questions, and was very inquisitive where the French fleet was; and he told him all this matter."

Sir *Francis Child.* Rutter did say, 'That admiral Killegrew turned from him, and took little notice of what he said;' the rest of the admirals were in the room, and he addressed himself to sir Cloudesly Shovel for his pass.

Rutter. "In Nantz, they asked me, 'where the Turkey fleet was?' I told them, 'they were ready to set sail, with 80 men of war.' They laughed me to scorn, and said,

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they knew better.' There was a discourse at St. Malo's of laying up the fleet, but nothing at Nantz. I never said a word that the Brest fleet was unrigged. There was much pressing before I came away, sending to Brest with all expedition. Capt. Barker's boat brought me on board the Britannia, with only the boat's crew, and the coxswain. I went immediately to the Admiral's cabbin-door. I waited there a quarter of an hour. Some gentlemen were standing at the cabbin-window, but said nothing. I expected to have been asked several questions, but I heard none."

Sir *John Lowther*. Now Rutter tells you, he was asked no questions, nor gave any account of the French fleet, but they told him of his being called in question, if the parliament had sat, for carrying French goods.

Mr. *Foley*. It is time to make an end of this matter; and I know not how, unless you call in the Admirals, Carr, and Rutter, and his mate, and confront them all together.

The three Admirals and captain Kerr were then severally called in and confronted with Rutter. The Admirals were afterwards called in, and heard; and then withdrew. And the question being put, "That it does appear to this house, that the Admirals, that commanded the Fleet the last summer, had, on the 11th day of May last, Information that part of the Brest fleet was going out to sea;" it passed in the Negative, 170 to 161.

Debate on a Bill touching free and impartial Proceedings in Parliament.] Dec. 4. An ingrossed Bill, touching free and impartial Proceedings in Parliament, was read the third time.

Sir *Edw. Seymour*. I would not, by any ways and means, disgrace that body of men from whom must arise our security. The late Long Parliament did stand against popery and the French interest. To say those laws were passed by corrupt men, that the house was filled with! Next, in this Bill, no person to be chosen a member is capable of an Office. The question was formerly, 'What will you do for the man that the king delights to honour?' And now, What disgrace will you put upon him? I think this a great reflection on the country, and will you establish these reflections? There are other ways than Places to corrupt men, which may be turned into Pensions. And by this Bill you establish nothing but reflections on your country.

Mr. *Harley*. I can hear no argument against the Bill. It is objected, 'That this bill will put a reflection on the worthy members that have Offices;' but you have taken care of those that are to come hereafter, but not those in present. As for former parliaments, it is best to pass them over in silence. And as for 'the king's honouring men,' no doubt but the king will honour them who best deserve it. If the people make choice of one in office, they are not deceived, but if they accept of an office, it voids their place. People may be deceived it their choice. In the first of king James 1, the Chancellor, studious of the good of the kingdom, sent down to the house of commons a list of the Members in Office, and they were turned out of the house, and new writs were sent out, and new members chosen, that might attend the business they were chosen for.—The Bill was then passed.

Debate on the Estimates for the Year 1694.] Dec. 5. The earl of Ranelagh, by his majesty's order, laid before the house the State of the War, in relation to the Land Forces, for the year 1694, amounting in the whole to 93,685 men, and 2,881,194*l.* 16*s.* 3*d.* annual charge.

Sir *Tho. Clarges*. The forces given in are 93,000, in the whole. It was never known that an army of near 100,000 was raised. The king is a gracious prince, but consider what a precedent you make! this is a good king, but other princes may say, 'The like has been done,' and so we may be slaves for ever. Parliaments have been always careful of making precedents. I move, 'That the lords of the council may sign this List,' that we may know whether this be Dutch, or English counsel. I would know who must answer this? but I will dare say, that no Treaty obliges us to one man. But if this must go, whither will this obligation go? the last year, you called for Treaties, and you had but one offensive treaty with the States produced, signed by lord Nottingham, &c. I would see those signed, and not prostitute the people of England. If we shall be slaves, it is no matter who we are slaves to. If you agree to this number, I cannot tell how to help it; but I move, 'That the Lords of the Council may sign this List.'

Sir *Christ. Musgrave*. No wonder we are surprized at this number, when we have nothing before us, but just reading the Papers. Because we gave last time without seeing the Treaties, now they bring us the like again. If there be any such Treaties with the allies, in God's name, let us see them. These are no more than if so much money was demanded of us. Let us make an humble Address to the king, to lay these Alliances before us, and then we shall be able to judge what proportions come to us. One would think that this was Dutch Counsel; else we should never be put to contribute at this rate, to ruin England to preserve Flanders. I know no consideration for this but our labour for our pains. I would address the king, &c.

Sir *Francis Winnington*. I am much surprized at this Estimate, and to observe that the more we give, the less success we have. I have heard from Mr. Vaughan, in this house, 'that no sum of Money was to be asked here, but the cause was laid before us.' What signify all our laws, if we have no estates? the nation is not at its ease, so as to give such sums. We are told that still there is a vast debt behind; but there are vast Pensions and Gifts. Every man ought to know the reason of this. If this vast number will ruin England, we must not support Holland. I would have the Alliances produced.

Sir *John Thompson*. I would defend the Con-

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federacy as far as we are able. When Holland was in danger, they made us pay 600,000*l.* for that little assistance they sent us. I am apt to think that many of the misfortunes to us in Flanders are for having so many men there. Their Army lost not so many. The English were knocked on the head, and we had not so many men, we had not so many detachments, and so the French beat up our camp. All we have hitherto given amounts to no more effect than to be beaten abroad, and beggared at home.

Dr. *Barbon.* I should be loth to see Trade regulated at Amsterdam, and war at the Hague. If this number of men be found reasonable, I shall agree to it. If not, I would call the Advisers to account.

Sir *John Dorrell.* I am amazed at this Estimate as much as any man. The objection, want of success—But when 'the fathers have eaten sour grapes, the children's teeth are set on edge.' The last reigns made the French so great, that we cannot now pull them down. Cromwell neglected Europe to save himself. And the two last reigns went in the steps of Oliver. Either we must be at the charge to pull down this vigorous monarch, or not. If we will lie down to be trodden on, we may. But let the sum we give be laid impartially, as in other places. This charge is borne by the fortieth part of England. If every shoulder bore part of the proportion, the sum of two millions would be easily borne. I join with the motion for an Address.

Sir *Charles Sedley.* This Army is not so dangerous as is said. It is to defend us from France and Popery. If Holland be destroyed, it is our turn next. The king tells us of the want of numbers, and certainly numbers must be continued, if not increased. There is a great and terrible sum to be raised: but we are not yet under Excises. This sum will be great, but the nation cannot be saved without it. We cannot be safe without an Army; neither safe at home, nor considerable abroad.

Mr. *Harley.* I do not doubt but this house will consider the necessity to preserve the nation and the confederacy, so much as belongs to us; but that is not the question before us; but the Treaties and Alliances. I hope, when we raise the money, that we shall satisfy them that sent us. When these are before us, then it will be time for us to judge. That which surprizes me is what is talked of 'general excises,' on both sides the house. Let us be careful that what we give this year we may be able to give the next, without filling the nation with Publicans, and the house with Excisemen.

Sir *Tho. Littleton.* You had the Alliances last year before you, and I think none were broken. The king tells us, 'That our Allies declared they would augment in the midst of their distress;' and they did very wisely, and seasonably, to keep up the hearts of their people. Nobody doubts but that the king tells you true of the want of men. Thompson tells you, 'If you had less men, you would have less killed;' and I say, if you had had none, you would have had none killed. If the French king be wearier of the War than we, less money will carry it on. The manner of collecting the Tax, &c. has been a Grievance, but nothing has been said of an Excise. If the French king can, you can easily carry on your Taxes; he will be the sooner weary. But why should we be surprized that this is a greater Estimate of our Forces? Clarges is an able member, and always speaks to instruction. He tells you of precedents, &c. But was a kingdom ever in such a condition, the enemy stronger than you? I am sensible that, in the late reign, people without doors were ready to give, who now value themselves upon saving your money, when you are upon the utmost extremity. I believe the country would rather part with their money, than dwindle away from year to year: suppose it should fall out, that the Confederates should leave us; but if we leave them, the French king will be quickly full of money, and over-run us all.

Sir *Tho. Clarges.* 'All Treaties last time were defensive, not offensive, and that with Denmark should not extend to an offensive war with France,

Sir *John Trenchard* *. The last year you sent such an Address to the king, and the Treaties were laid before you. The Treaty of Charles 2, with the States. I propose that this lie upon the table, and the house consider whether the whole or part.

Sir *Tho. Clarges.* The Treaties before you the last time were partly defensive. I remember, the Treaties of Charles 2 were brought to us. All defensive Treaties. 'They shall be maintained at the charge of the party sending;' but is it for us to be at all the charges? If aid be called for from us, we must judge of the Treaties.

Sir *Christ. Musgrave.* I was one of the first that made the motion for these Treaties, and see no reason why we should relinquish it. But you have been told, by Trenchard, of new concerts; therefore I would know what before, and what augmentation must be made now. I would have before us what should induce us to consent, and not do it, without knowledge; and if there be any Treaty, pray let us have it. I am more concerned than before, 'since a general Excise' has been talked of, for then adieu to our liberties at a blow! I would know what our allies were before, and what they are now.

Sir *Tho. Clarges.* Treaties are not verbal,

* Secretary of State. "He had been engaged far with the duke of Monmouth, but got out of England, and lived some years beyond sea, and had a right understanding of foreign affairs. He was a calm and sedate man, and much more moderate than could have been expected, since he was a leading man in a party. The bringing him into that post was ascribed chiefly to the great credit which the earl of Sunderland had gained with the king." Burnet.

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but in writing. Since the house waves the privy-counsellors signing the Paper of the Forces, pray let us see the Treaties.

Col. *Cornwall.* When we must come in to the Confederates *totis viribus*, I would know why they have not their numbers complete? I would know what is become of these men? We shall pay above double, and they not above half. Perhaps you may make the French king bring some of his men out of Germany, and be the weaker. Your increase of forces will be of no use. I believe they have not officers in Holland that have judgment to manage so great an army.

Lord *Colchester.* If you do not encrease your forces, the honour of England will be lost. Though I have the best opinion of the English of any men, yet if they be so often baffled by numbers, they may become like other men. If we can come up with numbers equal to the French, we shall beat them. What induces me to this is my love to my country, and my religion. I love my ease as well as other men. I doubt not but, if we keep up our number, the king of France will come to ask a peace at the house of commons door.

Col. *Cornwall.* I have not so much experience as lord Colchester, but in one year I have seen more done, than in four years since. I do say, our forces were so equal before they drew out the detachment, that I ask, if the French durst have attacked us, if the duke of Wirtemberg had not gone out?

Mr. *Harley.* I speak to the wording of the question. You say, the forces shall be augmented. The proper question is, 'Whether the Land-Forces?' This question may be multiplied, and run into an endless debate.

Sir *Christ. Musgrave.* You have not approved the List, nor any part of it. The question is, 'Whether the number for England, &c. shall be the number for this year?'

Mr. *Howe.* I think you have performed your promise to the king, since he came to the crown, and I hope he will perform another, to see his promises kept to us. Our ancestors proposed good laws, in exchange of the money we gave them. I would know, whether you wish to be supported? Unless you better your condition, you are not fit to be supported. The king says, 'What seems good to you I will do.' Since it is not the question, whether you will send men into Flanders, you must either be strongest there, or make your peace with them that are so.

Resolved, "That an humble Address be presented to his majesty, by the privy-counsellors of the house, That his majesty will be pleased to command, that such offensive Treaties and Alliances, as his majesty is now under with the Confederates, and the proportions of Forces that the Confederates are obliged to make, for the carrying on of this War, may be laid before this house."

Debate on the Miscarriages of the Fleet resumed.] Dec. 6. Sir George Rooke attending, according to order, was called in, and gave the following Account of the Convoy of the Turkey fleet:—"1. I desire, as far as may be, to be excused from giving any opinion of the gentlemen that were entrusted with the conduct of the Fleet; but what the house pleases to command me I must obey. I cannot tell what opportunities the Admirals had, after I left them. I know not what opportunities they had, when they came back, to know whether the French were come out, or not. 2. I know not of any intelligence they had, but I asked them, and they told me they had none. 3. There were several reports when we lay at Spithead. Sometimes, 'That a French squadron was out.' The report at other times was, 'That their great ships were disarmed, and that small squadrons only were to come out.' We had no intelligence after, but what I have said, which had no weight with me at all, and I did not acquaint the Admirals with it. 4. I did not call the captains of the merchant-men to a council of war, till I came to the Madeiras. It was the 18th of June before I came to the Madeiras: and then I went to Ireland. 5. After the signal was put out on board the Admirals, I had reason to think myself separate from the Fleet, and had not gone on board, if the weather had not proved fair, to receive instructions for my proceedings. 6. A Portuguese came on board me, but his intelligence was so contradictory, that it gained no credit with any body. 7. I did not send to the coast of Portugal to know whether the intelligence was true, because I gave no credit to it. If it had been the French fleet, it was happy I had not gone into the Ocean, and so made the loss greater than it was. 8. The result of the council of war I know nothing of, but that it was unanimous. 9. There were general debates and arguments, and the custom of the council of war, as of all councils, is, that they sign to the majority. 10. I believe the result of the council of war was unanimous. 11. I believe the gaining intelligence, in former years, was by sending into Brest-Water, and taking prisoners from the shore. 12. I did understand, by their Resolution, what measures to take. 13. I have the Minutes, which I took at the council of war, about me. 14. As to the Admiral's intelligence, it was said, 'They had no ships proper for that service, to send in for intelligence.' I thought it unreasonable, and impracticable, to give orders in steering our course to Cadiz. All the flag-officers were of that opinion. 15. We expected we should have intelligence, but thought it impracticable to go into Ushant. 16. The council of war was on the 16th of Sept. I believe I did draw up the result, but there was something in it I could not sign, and, I believe, that was the reason why I did draw it up. 17. There was something proposed, at the opening the council of war, which I could not sign, viz. 'That the Orders the flag-officers had received, were executed according to the Resolution of the council of war.' I could not sign this, having been absent a great part of the summer. 18.

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I humbly presume it is very well known to several of the members, that it was never my opinion, that the Fleet should proceed in the circumstances they were designed. 19. The captain of a French fire-ship gave intelligence —and I have said it in my Paper. I know neither the French nor the Portuguese language, and so must submit to an interpreter, and what was said is in my Paper. 20. I sent to some captains, and examined them apart, which I delivered in, in my Paper. 21. I never saw, nor heard of a fruit-ship, nor ever saw any ship, but one Dutch ship, from the Terceras, going to Amsterdam, till I met the French fleet. 22. I remember not the lords of the admiralty, but I remember, that all the flag-officers went ashore with the Admirals, with the result of the council of war. 23. I believe they delivered it to the lords of the council at Portsmouth, because they went on shore for that purpose; but of its being transmitted to the lords of the admiralty I know not. 24. As the weather had proved, I believe we might have gone into Brest-Water. 25. I know not what orders the Admirals had; they were private orders, and I know not whether they went according to their orders. 26. I believe I was about two leagues off, when the signal of parting was given. 27. I know not whether I saw the orders of carrying the fleet to Lagos-Bay. I heard them read, but dare not offer my opinion in so weighty a matter. 28. I was present at the council of war, on board the Britannia, the 22nd of May. 29. The signal of parting was proposed in case of bad weather. 30. I approved the station of 30 leagues W. S.W. of Ushant. 31. I understood, that, when I came there, I should take farther measures what advice I should take, from the intelligence I should receive. 32. I have the Minutes of the Council of War, of May 22, about me—(which he read, and captain Parsons's Letter he read, viz. 'I wish you may find out the men that were the occasion of your not proceeding in March.') 33. I think some other flag-officers made objections to the proposal; to the best of my remembrance, lord Berkeley, and admiral Aylmer. 34. The proposal was not drawn up, but offered and proposed. I had been absent a great part of the summer, and from the council of war too. 35. We had not proper ships for the service of sending to Brest (as before) June 4, and the men might suppose they were sent to be sacrificed. If I had committed errors, I might commit more. 36. Early in the morning the signal was put out. The weather proved fair; and I suppose that was the reason why the Admirals gave the signal for the council of war." [He withdrew.]

Mr. *Chadwick.* If you have any thing to ask the Admirals, they are at the door.

Lord *Falkland.* I would ask the Admirals some questions. You cannot else make a judgment upon the whole.

Resolved, That the Admirals be called in severally.

Admiral *Killegrew*, at the bar.—"I, being but one in the commission, humbly crave, that those in the commission may come in. I know not else what inconvenience it may be to us. Between the 30th and the 6th, we sent out our scouts for what intelligence we could get. If we had sent into Brest, we must have lost our opportunity of sailing. A vessel that was sent out, took a fisherman, but he knew nothing. The admiralty sent us word, that they had not cruising ships. Had I sent a ship in, which way could it escape? If I had thought it feasible, I would have done it. We did nothing of any kind, nor made one step, without a council of war, where we three are but one man, and one voice; neither durst we have done otherwise. We endeavoured to get intelligence, but could not come at it. If orders were sent to us, that we could not put in execution, I hope the house will not blame us. We gave Rooke no orders, nor instructions, at parting." [He withdrew.]

Sir Ralph Delaval, and sir Cloudesly Shovel, were then, separately, called in, and asked several questions, to which they gave answer; and then withdrew. And a motion being made, and the question being put, "That the Admirals that commanded the Fleet the last summer, by not gaining such intelligence as they might have done, of the Brest fleet, and not sending into Brest for intelligence, before they left the Streights squadron, are guilty of a high breach of the trust that was put in them, to the great loss and dishonour of the nation;" it passed in the negative, 185 to 175.

Charge against Lord Falkland.] Dec. 7. Mr. Harley, from the Commissioners of Accounts, acquainted the house, "That Mr. Francis Rainsford, Receiver of the Rights and Perquisites of the Admiralty, having been examined before them upon oath, as to his Accounts in general, did acknowledge, 'That, about the 18th of March, the lord viscount Falkland sent for him, and desired to know how much money he could advance, as Receiver of the Rights of the Admiralty; and that it would be for his majesty's service to pay as much as he could.' He then said, 'He would pay 4000 *l.*' That the 22nd of the said March he received from lord Falkland a letter, expressing the number and value of the Bills required, and desiring him to take no notice of it to any one. That he had the original of this Letter in his custody till Monday last, when, being sent for by lord Falkland, he shewed the original to his lordship, and he kept it. That, in pursuance of the said Letter, he attended his lordship the next morning; and then acquainted him, 'That he could not bring his lordship notes that day for the whole 4000 *l.*' Whereupon, his lordship ordered him to bring notes for 2000 *l.* and to bring the other within 14 days. That afterwards, the same day, Mr. Rainsford brought six notes for the money, two of 500 *l.* each, and four for 250 *l.* each. That, upon the delivery of the said six notes, lord Falkland delivered to him an Order signed by his majes-

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ty, for paying the 4000 *l.* and also a Certificate of his majesty's signing; copies of which he produced. The hand-writing of the Papers he believed to be lord Falkland's. His lordship, upon receiving the said notes, gave him a receipt for his 2000 *l.* And, after the 14 days allowed him for paying the other 2000 *l.* were expired, lord Falkland sent a servant to the said Mr. Rainsford; and thereupon, he attended his lordship about the 10th of April, with a note for 1000 *l.* and about the 20th of April, with such another note. Upon which, his lordship took up his first acquittance for 2000 *l.* and gave him a receipt for his majesty's use for 4000 *l.* That lord Falkland did acknowledge, upon his oath, before the commissioners, 'That, the 23rd of March, 1692-3, he did receive from Mr. Rainsford, notes upon Mr. Fowles, for 2000 *l.* but could not remember to whom those notes were payable.' And his lordship said, 'The same day he did, by the king's order, deliver those notes to one who is no member of either house of parliament; and hath a receipt for the same.' And his lordship farther owned the receipt of the other 2000 *l.* some time in April, which, he saith, is still in his hands; and that he hath attended his majesty, since his return; who told him, 'He had directions for him therein."

Debate thereon.] Lord *Falkland.* I acknowledge the receipt of 4000 *l.* I have disposed of 2000 *l.* of it, but not to parliament-men. I applied to the king for his directions for the remaining 2000 *l.* I can say no farther than I did to the Commissioners of Accounts. I received it by the king's order, and paid it to no members of parliament; and the rest is in my hands.

Sir *Christ. Musgrave.* I have not heard of such a way of proceeding. It seems, there was great haste for the payment of this money; but as great as the haste was, 2000 *l.* is still in lord Falkland's hands. But I must observe, that when a man is brought to your bar, and ordered to attend, then for that lord to send to him, and take that letter from him, and say, 'Be sure you tell nobody of it!'—How many public purses must be in England? It looks as if this money was given—Bills of exchange in other men's names!—I find my respect can carry me to no other motion, but that, if lord Falkland has any thing farther to say he may; if not, that he withdraw.

Lord *Falkland.* I had directions from the king to receive this money, before he went into Flanders; the rest I should pay as he should direct. I hope this is no fault, to obey the king. The money was received by no member of parliament, nor was for the use of any member. The Account could not be made till all the money was received. I have paid it as the king has ordered, and so I shall do the rest. I desired the commissioner to send me a precept.

Sir *Tho. Clarges.* According to order, lord Falkland ought to withdraw. I would know the sense of the house in it.

Lord *Falkland.* I believe, this money was for the king's immediate use, and when I brought the king the notes, he ordered me to pay it to the Clerk of the Closet for his immediate use.

Sir *Tho. Clarges.* This Mr. Rainsford, I perceive, lord Falkland preferred into the Admiralty. He was pleased to send that letter, 'That what money he could pay should be kept secret.' Lord Falkland is a privy-counsellor, and brought blank notes to be signed by the king. It is the ordinary method, to pay money by the great seal, or privy seal. That was not done like a privy-counsellor, to advise to put the king in a figure of signing bills. It is a breach of Falkland's trust, and he ought to be tender of the honour of the king. He took up the letter again, and expressed himself, 'That it should be kept very secret;' but if the money was for the king's use, it might surely be no secret, to be paid by the king's direction. I think this lord has not used the king very kindly, to keep the money till he knew how to dispose of it.

Mr. *Foley.* I cannot but take notice, that all the report carries a suspicion, that this money is not to be owned. I cannot imagine, why these two notes should be sent to the goldsmith. I think, as has been observed, that it is a strange way of issuing money. The notes ought to be counter-signed. To whom these notes were to be paid, must be kept private. Four men were to have two notes. It is plain these were goldsmith's notes, to lie by, and to be paid at leisure. This lord gave a fortnight's liberty to pay these two notes, without acquainting the king. My lord thought not fit to tell the commissioners to whom this money was paid, but 'not to members of parliament.' This Randolph Keyn's * name has been much used in money. I hope the house will have satisfaction from Keyn. By all the circumstances, it appears, that this money was put to an ill use, and I would vote it so.

Sir *Tho. Littleton.* I attended the report, and I observe several gentlemen have showed great jealousy, but I know not of what. I think, lord Falkland has fairly delivered himself of the 2000 *l.* and the other 2000 *l.* you may send for when you please. This may be the king's own money; may he not dispose of it? But if you will enquire into the king's private revenue, not disposed of by parliament, do as you please.

Mr. *Harley.* I stand up only to justify the Commissioners of Accounts. We are not to enquire into the privy purse; but this being a person who refused upon oath, this a bye-corner of the revenue, the commisssioners have done their duty. And, I believe, you will find this John Thomas † a name much used. Do as you please.

Sir *Tho. Littleton.* I had no intention to

* The person to whom most of the notes were payable.

† The person to whom two of the notes were payable.

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make any reflection upon the Commissioners of Accounts. I am so far from thinking that they have not done their duty, that I think they have done more than their duty.

Mr. *Howe.* If this lord had obeyed the king in any unlawful thing, I think it not warrantable; but to obey him in lawful commands, I think is the duty of every servant. I believe the king may have private uses for his money, and long may he have so; do what you please!

Sir *Tho. Clarges.* Littleton tells you, 'He made no reflection on the Commissioners of Accounts,' and excuses them with greater reflection. We, (the Commissioners, &c.) are made common enemies here, Littleton is of the robe, and he knows that the great seal, or privy seal, must dispose of the king's money.

Sir *Christ. Musgrave.* I think it a great fault before you, for a man to take upon him to draw warrants, and it is a diminution of the king's hand to sign warrants. But I think the crime of this lord is this; that, when a man was brought to the bar, to inform you of this payment, the same day he should take away the letter, that directed the payment. He deserves to go to the Tower for no other thing. The money is in this lord's hand, and he keeps it in his hand, and there is nothing plainer, than that this money was for Secret-Service. In a privy-counsellor, this is an offence. Has not the king a privy purse? If it was for the king's secret service, what need of such concealing it? You may reasonably say, this was for some service that ought not to be. The taking away the letter from Rainsford was an affront to the house, and I move, 'That this lord be sent to the Tower.'

Sir *Charles Sedley.* The king had this money, as private money, the perquisites of the lord admiral, there being none at present in being, and may dispose of this money as he pleases. I find this lord has done nothing but as first commissioner of the Admiralty, and paid it accordingly. He has told you, 'It was not for the use of any member.

Mr. *Montagu.* You are rightly informed of the course of payments of the king's money, by the great seal, or privy seal. I cannot tell by what rule, and know not how it is so. What issues from the Admiralty is not under the rules of payment in the exchequer.

Mr. *Finch.* How this money is to be directed, I know not the method; but I dare venture to say, it is not according to law. If it be by direction of the Admiralty, it ought to be signed by the Admiralty. This lord is a commissioner, and he prepares a warrant directed to himself. The 2000*l.* remains subject still to direction. However any man is to be paid, it is for a consideration, and he is by law accountable to the king for the money. He is accountable to the law for this sum, thus long in this lord's hand. For any other man, it is no excuse to let money be in a man's hands upon good behaviour. It was neither received according to law, nor paid according to law. If you establish this, you establish all pensions. I hope that, if this lord be faulty, you will punish him accordingly.

Sir *Francis Winnington.* This affair is necessary to be enquired into. If once Pensions be connived at here, it will give countenance to the judges, in their courts, to do the same. The French king never grew so great, as since Pensions were in parliament; though no man is so foolish as to own it. This way of receiving the king's money is against law. All the revenue ought to be brought into the exchequer. This money of the Admiralty ought to be so. All fines ought to be brought into the exchequer, if not granted off by privy seals. This lord is a member of parliament; he ought not to finger money in the Treasury—'This money he must speak of to nobody.' These expressions bespeak something not fit to come to light. People receive the king's money by record. How came this letter to be taken away? It is well, if the money can lie half, or three quarters, of a year without calling for. A trunk of money was delivered to a gentleman cross Ludgate-Hill, that should not speak one word of it. Great implication in 'that he should tell nobody,' and these bills were signed just at the rising of the parliament. I take it, that the taking away this letter is a contempt to the house. 2000*l.* of it was paid, and the other 2000*l.* he kept to himself. If once detected, I hope others will be punished that are guilty.

Admiral *Russel.* I would have gentlemen consider what this money is. It is said, 'It is proper to be paid into the exchequer, or by privy seal,' Pray consider, this money belongs to the lord admiral's perquisites, to dispose of as the king shall direct. But if this lord shall dispose of it by the king's direction, I hope you will not send him to the Tower for this.

Sir *Robert Cotton.* This matter before you is of great consequence. When you enquire farther, this lord is not so criminal.

Mr. *Boyle.* I think this matter not plain, but much plainer than was expected. You have all the suspicion and ground to suspect something in this matter. When it was first started, this lord said something, and afterwards something more, and I hope that, if you send him to the Tower, he will tell you all. Rainsford refused to take his oath before the Commissioners of Accounts; and, the highest thing of all, the letter, is withdrawn, to stifle your information. I have heard it said, 'That England can never be ruined but by a house of commons.' I join in the motion 'for sending this lord to the Tower.'

Mr. Solicitor *Trevor.* This lord has denied paying any of this money to members of parliament. He says, 'He has not received nor paid this money without authority;' and some money is still in his hands. If it be so, that the money belongs to the Admiral, it belongs to his office, in point of law, to the perquisites of the Admiralty, and that is its proper channel. It appears not that it was disposed of to members, but it came into his hands as an officer of the Admiralty.

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Mr. *Bromley* *. You have, in some measure, owned you have Pensioners. If you admit this for a defence, you must never expect discoveries. You are moved, to send this lord to the Tower. I am far from a harsh motion, but if it had been to expell him the house, I should have joined.

Sir *Herbert Crofts.* I am sorry to find endeavours to lessen the crime of this lord: I am sorry to find it in an English parliament. Nothing will more corrupt and destroy us, than this of Pensions. It is sufficiently made out, that this money was paid as a pension or gratuity. But I insist upon that offence, that, when you had a man before you, after that to withdraw the letter, or stifle your proceeding, you cannot be too severe upon him; and I join in the motion 'for committing him to the Tower.'

Mr. *Hungerford.* I am as forward as any to punish, when corruption is digging the grave of our English liberties. But this lord is not so culpable as represented. He is in the commission of the Admiralty, and the money is properly payable to that office. We are in the dark, and I would have———† sent for, but not commit this lord to the Tower.

Mr. *Palmer.* I do not rise for the question of sending this lord to the Tower; that is too hasty. It was a great crime, the withdrawing the letter, &c. I think the Commissioners of Accounts deserve the thanks of the house. They have told you that other persons names were used. I move, that you would adjourn the debate, that those other persons, whose names were used, may be sent for, that were concerned.

Sir *Christ. Musgrave.* I should not trouble you again, but for what fell from Boscawen, who asks, 'For what crime you will send this lord to the Tower?' It is stifling the Evidence, that the commissioners take to be the crime. Remember your order yesterday, 'That no member should speak with the Admirals;'‡ but when you are taking the Examination of this money, your member to stifle the evidence! What would have been the judgment of the house, in that case, yesterday? I would fain know that. 'Nobody,' Falkland says, 'must know of it.'‖ He deserves to be sent to the Tower for stifling the evidence.

Sir *Tho. Littleton.* I only observe, that the evidence was not stifled.

Sir *Christ. Musgrave.* If a copy had not been taken, I appeal to you if the Evidence had not been stifled?

Mr. *Foley.* You have had a report from the Commissioners of Accounts, and now it is moved, to have it at the bar, by persons to be summoned. Put your question right, viz, 'That Rainsford being sent for, lord Falkland withdrew his Evidence.'

Sir *Henry Goodrick.* I can find no manner of excuse, if any thing had been done industriously that this lord is accused of. I desire he may be heard in his place.

Sir *Christ. Musgrave.* The usual custom is, that the person accused may, if he desires it, be heard in his place; and I move it.

The question being put, "That lord Falkland, for withdrawing a Letter, writ by his lordship to Mr. Rainsford (who was to be examined by the Commissioners for taking the public Accounts) be committed to the Tower;" it passed in the negative, 175 to 137.—Resolved, "That lord Falkland be called in, and reprimanded in his place." He was called in accordingly, and reprimanded by the Speaker, to this effect: that his withdrawing the Letter from Mr. Rainsford, &c. was a great offence against the house, &c.

Lord *Falkland.* I am sorry I should be the occasion of giving the house this trouble. I protest I did not withdraw the letter with any design of withdrawing evidence. I am sorry for it. And, upon my word, if it was an error, it was in my judgment, but with no design of stifling the Evidence. I hope the house will make a favourable construction of it.

Mr. *Smith.* It is clear to you, that part of the money, the 2000*l.* was not given to members; but the other 2000*l.* is not clear.

The *Speaker.* The house has considered your withdrawing the letter, and have been merciful to your lordship. You have said, 'You did it not wilfully; it was an error of your judgment.' I have done the part that belongs to me, and I hope you will do your part, in giving the house satisfaction.

Lord *Falkland.* I am extremely obliged to the house, that they have been so merciful to me; and I give my humble thanks to the house for their mercy.

An Account of the Confederate Forces.] Dec. 8. The commons having addressed his majesty for the Treaties and Alliances between him and the Confederates, and an Account of the Proportion of Forces they are to furnish; Mr. Secretary Trenchard acquainted the house, by his majesty's command, That as to the Treaties, they were the same with those formerly laid before the house, except one new Treaty with the elector of Hanover, which lay on the table: and that the Proportions of Forces were as follow, viz.

	Forces now on foot.	Raising.	Totals.
States General - -	92,540	15,000	107,540
Spanish Troops in the Low Countries, including 1500 Bavarian Cuirassiers -	7,000		7,000
Spanish in Spain - -	18,000		18,000

* A man of a grave deportment and good morals, but looked on as a violent Tory, and as a great favourer of Jacobites; which appeared evidently in a relation he printed of his Travels. In the parliament of 1705, he was a candidate for the Chair, in opposition to Mr. Smith, but lost it by a majority of 44. He was afterwards chosen Speaker in 1710. He died in 1718.

† Sic Orig.

‡ This order is not mentioned in the Journal.

‖ In his letter to Rainsford.

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Emperor in Germany -	6,000		6,000
Elector of Brandenburg, beside those in Hungary	18,000	3,000	21,000
Elector Palatine - -	6,000		6,000
Elector of Triers - -	15,000		15,000
Elector of Cologne - -	6,000		6,000
Elector of Mentz - -	2,000		2,000
Elector of Saxony - -	12,000	2,000	14,000
Elector of Bavaria - -	8,000		8,000
House of Lunenburg -	23,000		23,000
Under the duke of Savoy in Piedmont Germans, 15,000 / Spaniards, 12,000 / His own, 14,000	41,000	4,000	45,000
Circles of Suabia, Franconia	24,000	4,000	28,000
Landgrave of Hesse-Cassel	6,000	2,000	8,000
Bishop of Liege - -	6,000		6,000
Bishop of Munster - -	2,000		2,000
	292,540	30,000	322,540

*Report of Sums, issued for Secret Service, and paid to Members of Parliament.**] Dec. 9. Mr. Harley, from the commissioners for taking the public accounts, presented to the house an Account of Moneys issued for Secret Service, and paid to Members of Parliament, in substance as follows:

"That the said Commissioners have, in every year's general Account, delivered to this house the Sums issued for Secret Service from the exchequer, or elsewhere; and that they did formerly return an Account of Moneys to Members of Parliament by William Jephson, esq. deceased, as far as your commissioners could have it discovered to them: They also desire leave to put this house in mind, that they did in their preceding Accounts represent the great endeavours they had used to obtain a full Account of those other payments made by him to members of parliament; and did return in writing the final Answer, which Mr. Robert Squib (who hath Mr. Jephson's Accounts) was ordered, as he said, to deliver to your commissioners.—Upon examining several persons to whom Money has been issued for his majesty's privy purse, or for Secret Service, the commons find divers sums of money paid to the members of this house, in re-payment of principal, interest-money, freight of transport ships, and also to return to envoys abroad, or to members deceased; which, if the house commands, shall be delivered to them in particular.—The other payments, since this government, as far as your commissioners have hitherto discovered, are as follow:

To sir Charles Porter for his Equipage into Ireland - - -	1,000	0	0
To sir John Trevor for Equipage and Allowance as Speaker - -	2,405	0	0
To sir Scroop How, a free gift, out of arrears of Hearth-money - -	2,000	0	0
To sir Henry Fane, a free gift, at twice, on being removed from being a Commissioner of Excise - -	1,000	0	0
To Thomas Frankland, esq. on the like account - - - - -	800	0	0
To sir Robert Howard, by verbal direction of the king to lord Ranelagh, per ann. - - -	1,500	0	0
To Baptist May, esq. at nine several payments expressed to be for purchasing Hay, free Gifts, Bounties in discharge of Taxes, on Windsor-Park, &c. - - - - -	3,512	18	9½
To Tho. Papillon, esq. a free gift in recompence of his quitting trade to execute the office of one of the Victuallers of the Navy, over and above his yearly salary of 400l. at the rate of 600l. per Ann. - -	750.	0	0
To sir Sam. Barnardiston, part of his Fine remaining in the exchequer, November 5, 1688 - - -	500	0	0
To col. Charles Godfrey, in part of the Arrears of a Rent-Charge, granted by the late duke of York, to Arabella Churchill, now wife to the said Colonel - - - -	1,500	0	0
More, on his Pension of 800l. per ann. - - - - - -	800	0	0
More, as his majesty's grace and bounty - - - - - -	400	0	0

* "About this same time, and in order to blast the Whigs and their leaders, who were now the reigning party at court, those active members, Harley, Foley, and Harcourt, presented, from the Commissioners of Accounts, a State of the Receipts and Issues of the Revenue; as also, two several Reports concerning Moneys issued for Secret Services, and to Members of Parliament; by which it appeared, that a Court-Influence was as prevalent in the reign of king William, as it had been in that of king Charles, when it was so much decryed; and that many of the most determined Whigs were become as obnoxious to it, as the most pliant Tories; for, not to insist on occasional Bounties, free Gifts, &c. it appeared, that many of the persons, deprived of places, to make room for others, were quieted with Pensions, equal in value to their former salaries; and even, that many who were taken into employment, not being satisfied with their salaries, were in a manner bribed with additional stipends to accept them.—But what seemed to be the principal motive of making these Reports at this crisis, was the mention that was made in them, of admiral Russel. Sir John Guise, who was one of the first of the English gentry that had joined the prince of Orange, had, as a consideration, begged of his highness, the Weeding of the Forest of Dean, or, in other words, the fall of all the Hasel, and other trees, not coming under the denomination of timber: but his majesty being afterwards informed, that what he had given for 7000*l.* was worth upwards of 20,000*l.* reduced his grant to his intention, and reserved the residue to be disposed of as he should find occasion. Of this, 500*l.* had been given to one Mr. Osborne, to be laid out on the borough of Heydon, in Yorkshire, 2500*l.* had been issued for Secret Services to Mr. Guy, (Secretary to the Treasury, and representative of that borough) and the remaining 10,000*l.* was bestowed on Mr. Russel, in consideration of his many faithful services, especially destroying a considerable part of the French fleet." Ralph.

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To B. Granvill, esq. in re-payment of money stopt for Exchequer-Fees in receiving his own rent of Moor Park, lett to the crown -	80	0	0
To sir Jos. Herne, in consideration of service done his majesty in Ireland - - - - - -	200	0	0
To sir John Guise as his majesty's bounty in part of 7,000l. he is to receive by Wood-falls out of the Forest of Deane - - -	1000	0	0
To Shadrac Vincent, esq. a free gift	1000	0	0

Debate thereon.] Sir *Robert Howard.* I had 1500 *l.* from lord Ranelagh. I was not so saucy as to refuse the king's favour. But I surrendered the grant.

The *Speaker.* I had 5 *l.* a day salary, and 2000 *l.* for my equipage, when Speaker, upon * * * * † estate. (Given in upon oath.)

Earl of *Ranelagh.* I had verbal directions from the king, to pay 1500 *l.* per annum, to sir Robert Howard, and it was paid till Dec. 1691; and then Howard delivered it up, and no more notice was taken of it.

Mr. *Papillon.* I did petition the king to be excused from taking upon me the victualler's place. I was in business, and had trade to follow, and must neglect all till ten o'clock at night. I have received a year and a half, at 500 *l.* per annum.

Mr. *Harley.* There was 500 *l.* to sir S. Barnardiston. His fine was brought into the exchequer. He brought a writ of error, and he, in the lords house, reversed the judgment, &c. The interest of his fine came to more than 500 l. and he ought to have all.

Sir *John Guise.* I am charged with 400 *l.* for secret service, [he reads his privy seal] 'in consideration of my service beyond sea, and the charge of our expedition, to the hazard of his person, &c.' I thank the gentlemen for putting me down. This is not very much for the service I have done. As for 'the forest of Deane,' &c. it is but part of what the king promised me ‡.

† Sic Orig.

‡ In a Tract, published about this time, entitled, "Price of the Abdication," is the following remarkable passage: "Posterity will be as much astonished how the subjects were able to pay such infinite sums, as that ever an house of commons should be so extravagantly prodigal in granting them, and will set an eternal brand of infamy upon those members (already in good measure discovered) who to obtain offices, profitable places, or quarterly stipends, have combined, not only to vote whatever hath been demanded, but, that they may be thought worthy of their wages, in some things exceeded the expectation of the government. I will not presume to calculate what hath been distributed to these Pensioners since the Revolution, though some reckon it at a million. And there are who can tell that Mynheer Bentinck, and Guy of Heydon, are captains of the band, and when 150,000 *l.* was lodged for such Secret Service: and since their stipends out of the Treasury hath discovered several of them, 20,000 guineas at a time, out of the privy purse, is intrusted with Bentinck, the Dutch Almoner, to be distributed according to order. So much are these stipendaries preferred before soldiers, who adventure their lives for the government, and yet are some months in arrears for subsistance; none being carressed but such as study and labour to augment the exchequer.—It is remarkable, that such as have been hitherto detected, have had no other plea, besides their merits in promoting the Abdication. One of which, rather than he would quit that topic, cast a very undecent reflection upon the P. of O. his first Declaration, wherein his highness was careful to avoid all expressions, as if he had the least design upon the crown: and yet this doughty knight (sir J. Guise) affirmed, that at Exeter, in recompence of his service, in going to fetch, and accompany the prince hither, to the hazard of his life and fortune, he had promised him the Weeding, that is, the Underwood of the forest of Dean. This sort of claim of merit, not only opens a wide gap to let in swarms of other pretenders, but manifestly shews that the price of the Abdication is never to be discharged, while such jackalls are able to find prey for the Belgick lion, or till the people (when they are made sensible of such combination) shall take some effectual course to secure their purses, which they ought more to endeavour than against highwaymen, and their underhand setters, who fleece not whole countries and kingdoms, as these Pensioners do. Surely we ought to learn something from camels and dromedaries, beasts of burden, who crouch down to take up their load; but when they find it more than they are able to bear, either refuse to rise, or else cast their load. I leave the application; though I know it will not be made by such as design to load us till our backs are broke; and that, by a seeming contradiction, of laying the heaviest burden upon us, by taking all we have from us."

It was about this time also that the famous "HUSH-MONEY PAPER," as it was called, was set forth; wherein it is said, "That the house of commons is so officered, that by those that have Places and Pensions, together with their sons, brothers and kinsmen, and those who are fed with the hopes of preferment, and the too great influence these have upon some honest, mistaken, country gentlemen, (who are possibly over-frighted with the French) that the king can baffle any Bill, quash all Grievances, stifle Accounts, and rectify the Articles of Limerick." And, again, "I could name a certain gentleman, who exactly resembles Harry Guy, that the last sessions, when

Dec. 11. A complaint being made to the house, of a blasphemous printed Pamphet, entitled, "A Dialogue, by way of Question and Answer, concerning the Deity; and a brief, but clear confutation of the doctrine of the Trinity;" that hath been dispersed, and

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sent inclosed under covers, directed to several members of this house; one of which was produced, and delivered in at the table; the titles whereof were read; Resolved, "1. That the said blasphemous printed Pamphlet be burnt by the hands of the common hangman, upon Wednesday next, in the Palace-Yard, Westminster: and that the serjeant at arms attending this house do see the same performed. 2. That a committee be appointed to enquire into the author, printer, and publisher, of the said blasphemous printed Pamphlet; and to make their report thereof to the house."

Debate on the Supply.] The house went into a grand committee, on the Supply†. Several Treaties were read.

Colonel *Cornwall.* When the king went first into Flanders, he had not above 8000 English, and was very powerful then. Since that time, 27 or 28,000 men have been sent over. I should be glad to know, what is become of those men? We have not want of numbers of men, nor officers, but general-officers. The French took Huy, and then attacked the camp. If the French had carried the camp, they had taken all Flanders; at the first charge, they had cut the army in pieces. Now we are at the charge of a million—We are at the charge of the whole War, and they (the Allies) go away with the money.

Sir *John Lowther.* Read the Papers, the first thing you do, of the Alliances before you; and then it will be proper for your judgment.

Sir *Tho. Clarges.* I observe, Holland raises the Forces, and they are maintained by the commons of England. I observe that, formerly, when a treaty was made, the commons were acquainted with it. Now you have much greater numbers than formerly. In 1672, the Treaties were brought to the commons. This is a great undertaking—Now you have a much greater number sent over than formerly.

Earl of *Ranelagh.* There were two treaties with Hanover; in 1692, and Dec. following; they both name the same number of men. Towards the payment of the men, the king of England, and the States of Holland, were to give 30,000 dollars a month; which they thought were enough for 7000 men. The king and the States were to furnish two-thirds of the rations of bread and forage—the king 20,000, and the States 10,000 in a year, 58,000 men, and the Dutch the rest. This was the substance of the Treaty in 1692. Hanover was in danger of Denmark, and to keep his forces together, there was an augmentation of the king and the States, and, upon this augmentation, they are continued.

Sir *Tho. Clarges.* It is not easy, for such a memory as mine, to recollect things upon once reading. I observe, the Dutch pay but one third; we 50 ships and they but 30. I know not the reason for that. I have heard, that their ambassadors should say, 'That England

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the house was a little out of humour, disposed of no less than 16,000 *l.* in three days time, for Secret Services. Who are in Places we may find out, but God knows who have Pensions; yet every man that made the least observation can remember, that some who opened loudly at the beginning of the last sessions, who came up as eager as possible for Reformation, had their mouths soon stopped with Hush-Money, &c." For a copy of this very curious Pamphlet, see Appendix, No. IX.

† "Burnet is very positive, that from the time the lord Halifax was driven out of the cabinet by the Whigs, he uniformly studied to give the ministers all the trouble he could: and when he comes to speak of that nobleman's death, he repeats it, That he had gone into all the measures of the Tories; that he studied to oppose every thing; &c. But, unluckily, there is a Tract of the marquis's still extant, called, 'An Essay upon Taxes, calculated for the present Juncture of Affairs, 1693,' which he introduces as follows: 'Since it is of the last consequence to every true Englishman, that the present War should be carried on, for the preservation of our liberties and religion, against the common enemy of both; and notwithstanding the false and foolish insinuation of some discontented Jacobites, that a peace with France is more necessary than a war, and that it is more carried on for the sake of others than ourselves; and that, if it were necessary, it might be better carried on by ourselves alone, than in conjunction with the confederates: and that the only way to secure our liberty and religion, to obtain a safe and speedy peace, and avoid the great burdens we are subject to, for the carrying on the war, were to cast off the present government, and take measures with king James and the king of France: yet there is nothing more clear than that these notions are altogether absurd and impracticable; and that the true meaning of them is only to give up all that is dear to us, into the hands of two princes, who have always preferred the design of subverting our religion, to all other considerations whatsoever: and that it is much better to fight for Flanders than for England, and in conjunction with confederates than alone, is what will bear no dispute.' Now Burnet himself, as we have seen, allows, that the Tories split on this very measure of carrying on the war: and it is scarce to be conceived that the marquis would have composed a Tract expressly in favour of it, together with a Project for supporting the extraordinary Expence of it; or would have suffered it to be made public at a time, when the strivings of the two factions turned chiefly if not wholly on that point, if he had not been some way or other, comprised in the coalition of this year, and found his account in adopting that point which the lords Nottingham, Rochester, and the other chiefs of that party had rejected." Ralph.

A copy of this excellent performance will be found in the Appendix, No. XII.

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was an inexhaustible treasure,' and, at that rate, our meadows must be mowed. I have heard, that the current cash of Holland is 12 millions, and ours but 8 millions—The continent of the land of Holland is not bigger than Yorkshire. The East India produce there this year, has been 3 or 4 millions. If they out-reason or out-wit us, we are a little unfortunate. They to furnish Hanover with 10,000 crowns, and we 20,000 crowns—And all this while, we are 'An inexhaustible treasure,' and they may say so—This sum is small, but the consequence is great.

Sir *Christ. Musgrave.* I would not be confined barely to paper. If this be settled, it must be by some instrument. I hope we are at liberty to speak to the Papers, because they are referred to the committee by the house, and are part of the business of the day.

Sir *Tho. Clarges.* The additional forces of the States are 15,000, and those of England between 30 and 40,000, and this because England is 'inexhaustible in treasure.' If this Estimate be admitted, England will maintain 115,100 men there, in Scotland and Ireland; and I take not in the Indies: But, by the way, those in Spain and Catalonia are comprised in the number of their forces. Those German forces are in their own country, and for their country, but what does the emperor contribute to our Fleet? France maintains 100,000 men cheaper than we 40,000 men—All their General-Officers are paid but half the year, and their other officers are reduced. His fleet's expence is equal to ours. Sicily revolted to France, but it was so great an expence they were forced to give it up, though they won a battle at sea, when De Ruyter was killed.

Mr. *Harley.* The total of the List of our men is 93,000. I doubt not but every gentleman will come up to what is necessary, and the nation able to bear. I am sorry that Hanover Treaty is brought before you: being once laid before the house of commons, I fear it will be drawn in consequence upon us. I hope you will make some Resolution, that this is a greater proportion than you can bear, and that it be not authenticated by parliament—You are not told of any Treaty—But I see not yet that those forces are raised—They have so large a barrier to maintain by land, and you by sea. I hope you will see some more reason for the raising these men, than from the Gazette.

Sir *John Lowther.* I hope that at this time of day you will not discourage the Confederates, by discontinuing what you have allowed formerly. You have that before you, in my poor opinion, that concerns the honour of the nation. You have a powerful enemy, that carries all before him; and his government is absolutely opposite to yours, and the Protestant religion. All his successes have not discouraged the confederates by discontinuing what they have allowed formerly, either at sea or land. No successes of the enemy have made the duke of Hanover hearken to propositions of peace: nor in Germany, not the barbarity of destroying one of their greatest cities, as he would do this city, He must over-run that country, or bring them to a peace. Why should they have consideration for us, if we have none for them? No doubt, he would be glad if such a part of the world were subjected to him, either by conquest, or peace, out of which we shall certainly be excluded, and then we are a most miserable people. It is said, 'We can defend ourselves, if all the world were against us.' But it is plain, this concerns England; for the king of France has England in his eye, no other way but to be great at sea; not Holland, nor Germany, but England is in his eye. If the Dutch be for him, and against us, we cannot cope with him. If he be but one day before you, yon cannot get out: If an hour later, and the wind easterly, you are lost. If he make a descent upon you, and come fresh out of his harbours, he may land where he pleases. No naval force can defend you, as an alteration of wind may defend you. When the alliance of all the forces is with us, we may be secure. We have to do with a neighbour that builds upon the ruins of other countries. He is now upon his wreck, and all the strait he can be. It is known, he did not pay his men the last year, as formerly. Shall we draw back, when at the last push? Let us consider this as Protestants, and I move this short question, "That the Land-Forces may be increased to the number of 94,000."

Sir *Christ. Musgrave.* I will speak only to that part of Hanover Treaty, which, Lowther says, was formerly before you, and what a great discouragement it would be to the Confederacy, &c. But admit this number now, and you can never get it off. It is a strange argument for us to bear two-thirds, and the Dutch but one. I know not how the king, or his ministers, will be able to stem it, without the assistance of this house. They are a continent, and we are an island; and, if that be the reason, we are to blame to admit that reason. At this rate, your proportion of two-thirds will be multiplied infinitely upon you; and you ought to address the king, that our proportions may be more reasonably treated. You are told, by Ranelagh, 'That 30,000 dollars are to pay that army;' but when you pay for forage and bread too, in part, I think that the duke of Hanover's part might be more, now he is a ninth elector.

Mr. *Foley.* The order to the committee is, 'To consider of the 94,000 men given in, &c.' Is England to carry on the war with an unusual proportion, and other allies come not up to it? We ought to have a fair bargain. There are no proposals of a Treaty already made, but what is good for England. Therefore, I move, 'That an Address be made to the king, &c.'

Mr. *Hungerford.* The Treaty of Hanover, in reading the Paper, has let you into the whole.

Mr. *Smith.* Can gentlemen tell you, if you come up to this proportion, that Flanders is

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reasonably to be preserved? If not, you had better have your money in your pocket, to preserve yourselves. If that can be done, I can come up to it. If Treaties are ever so unequally made, it is certain, this year you must come up to them Show us that Flanders may be saved, if you come up to these gentlemen.

Mr. *Palmes.* You debate upon two questions, but whatever question you put, gentlemen may think it hard enough. The reason of bringing in Hanover Treaty was only to instruct you, what advance to give your Forces the next year. Our circumstances are such, that, if you break into these treaties now, you will discourage your friends, and encourage your enemies. I would be thoroughly informed of the reason of your losses last year, and the reason of increasing your forces. Till you are well informed, there is no haste for this question any more than for the other.

Col. *Granville.* I believe that the committee thinks, that, when general Talmash rose, he would have given you an account of Flanders.

Mr. *Palmes.* What fruit will gentlemen expect from this Address? If to prevent these Treaties for the future was the only intent of my motion.

Mr. *Montagu.* This question must grow to a decision, and I wonder, all this while, that we have been upon a collateral question. If the Hanover troops, speak to it, if that be the proper question. As a ninth elector, he gives his quota for Germany. If those troops are not paid by you, they must by France.

Mr. *Harley.* I think the question about Hanover ought to be first put. For what reason is it referred to you, unless first put to your consideration? You told us, we were not precluded. But a tacit reservation for the future, provides that, for the time to come, better care be taken; and I spoke to this first, before any spoke to the augmentation. As to his proportion for Germany, it was said, 'he was not an empty elector,' but the debate now is as to Flanders. This question is first, in order, to be put.

General *Talmash* *. At the beginning of last year, the French came with 10,000 foot, and 35,000 horse, and did not think the king could defend Flanders against this force. But his majesty took his camp at Park, near Louvain, which broke the French measures. The French afterwards attacked Huy; upon which, the king sent for the detachment at Liege and Maestricht; but the governor did not defend the town so long as he might have done. Afterwards happened the battle of Landen, and if the enemies had pushed their advantage, Louvain and Mechlin might have been taken. The consequence of losing these great towns is, the French will afterwards take Nieuport and Ostend. I have been told, Nieuport may be made a good port, which will annoy our trade very much; and besides, the Hollanders will be uneasy with such neighbours: And though they are very willing to do what they can to carry on the war; yet, if the war comes near them, the common people will force them to make an ill peace, or join with France. If the committee will increase their forces, I hope it is the way to make a good peace. A peace may now be had, but upon such terms, as that, before the present debts are paid, you may be engaged in another war. It may be thought that I, having no estate, am ready to put the nation to a great charge; but, I do declare, I am as weary of the war as any person, and as desirous to have an end of it: and, though I cannot answer for the success of the war, yet if the house will enable the king to come into the field with a good army, they may be able to preserve Flanders: and therefore, I conclude, to move the committee to augment the Forces for 1694.

A Petition of the Quakers rejected.] Dec. 16. A Petition of the people called Quakers was presented to the house, and read; setting forth, That, because of their tender conscience, they cannot take an Oath; so that they have been prosecuted to sequestrations, their estates seized, and bodies imprisoned; and prevented from maintaining their just rights, especially in the courts of chancery and exchequer, without an oath; wherein the law hath not provided for the Petitioners relief: and praying leave to bring in a Bill to admit, that their solemn and respective Answers, Affirmations, and Denials, may be accepted, instead of an Oath, in the courts of chancery and exchequer."—Resolved, That the said Petition be rejected.

Articles of Impeachment against Lord Coningsby and sir Charles Porter.] The earl of Bellamont * presented to the house Articles of Impeachment of High Treason, and other Crimes and Misdemeanors, against Thomas lord Coningsby, one of the late Lords Justices of Ireland; which were delivered in, and read at the clerk's table, as followeth: viz.

* A gallant officer, who had had a considerable share in the reduction of Ireland, and had served this year with reputation in Flanders, where he brought off the English foot after the defeat of Landen, with great prudence, bravery, and success. But being sent, the summer after this debate, on a desperate attempt against Brest, he was repulsed with great loss, June 8, in Camaret-Bay, and was himself shot in the thigh, of which he died in a few days, much lamented: 'For,' says Burnet, 'he was a brave and generous man, and a good officer, very fit to animate and encourage inferior officers and soldiers; but he was much too apt to be disconted, and to turn mutinous: so that upon the whole, he was one of those dangerous men that are capable of doing as much mischief as good service.'

* An Irish peer, appointed, in 1695, governor of New York, being thought by the king a man of resolution and integrity; and with these qualities, more likely than any other to put a stop to piracy, with which the American colonies, at that time, abounded.

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1. "That he the said lord Coningsby hath traitorously abused the power and authority of his government, and exercised the same tyrannically, discouraging and terrifying the Militia, by framing and imposing on them a new, arbitrary, and illegal Oath, notwithstanding that his majesty left Instructions, when he came from Ireland, for arraying the Militia; which instructions did, among other things, direct, That the oaths, established by act of parliament in England, should be administered to them; but the said lord Coningsby, in the oath he imposed, left out that part which requires them to renounce the jurisdiction of the Pope, and all other foreign powers, purposely to leave room for Papists to come into the militia: and further, in his Instructions, ordered all governors of counties to subject the militia to martial law, contrary to the known laws of that kingdom, and his majesty's said Instructions; there being no militia established in that kingdom by law, but has been hitherto a voluntary service.—2. That the said lord C. intending to bring their majesties good Protestant subjects of Ireland into a dislike of their majesties government, did, traiterously, arbitrarily, and against the known laws of the said realm, exact and force Free Quarter for the Army: and did also, by force of arms, levy money on the Protestant subjects; rejecting the several proposals made to them, by the most considerable gentry of some counties, for the more regular subsisting a greater number of soldiers than were free-quartered upon them; which discouraged other counties from making the same offers; so that the country thereby became entirely ruined.—3. That the said lord C. for his own private gain and advantage, did traitorously cause great scarcity of provisions in the army before Limerick, by obliging the sutlers to take licences from him at excessive rates, and by laying taxes on all such beer, and other provisions, as went to the camp; whereby, all or most of the sutlers being forced to forsake the service of the camp, provisions of all sorts became so very scarce and dear, that great numbers of the soldiers perished for want.—4. That the said lord C. assuming to himself an arbitrary and tyrannical power over the lives, as well as the properties, of their majestics subjects of Ireland, above and against all law, did, in council, traiterously, and by word of mouth, order one Gafney to be hanged without trial, the courts of justice being then open, and who was, at that time, an evidence against one Sweetman, for the barbarous murder of some of colonel Foulke's soldiers: but the said Sweetman giving all his real estate, to the value of 200*l.* per annum, to Mr. Culliford, besides the sum of 500*l.* to Mr. Feilding, his the said lord C.'s secretary, for being his bail, but never prosecuted for the said horrid murder: and the said Gafney was immediately executed, according to the said verbal order.—5. That the said lord C. during his government of Ireland, did, by himself, or his agent, traitorously settle and maintain a Correspondence, and carry on a trade, with the subjects of the French king, their majesties declared enemy.—6. That the said lord C. betraying and abusing the great trust reposed in him; and the better to enrich himself, and to enable him to go through with his traiterous designs; did embezzle vast quantities of their majesties Stores, and forfeited estates both real and personal; whereby the reduction of that kingdom became more difficult, and the war more burdensome upon England, and the army greatly discouraged for want of their pay; which by due application of the said embezzled stores and estates, might have been remedied.—7. That the said lord C. further traitorously abusing his said great trust, and betraying their majesties honour and interest, did, during his whole government, openly favour and support the Papists in their robberies, and other outrages, committed upon the Protestants; refusing to allow them liberty of taking their legal remedies against the papists.—And that he, the said lord C. was one of the said Lords Justices, during the time that all and every the Crimes and Offences, before set forth, were done and committed."

The earl of Bellamont also presented to the house similar Articles of Impeachment against sir Charles Porter knight, another of the late Lords Justices of Ireland.

Debate thereon.] Lord *Coningsby.* This is a great Charge. 'traiterously and violently' are the best words that can be found in it. This matter was before the house last session, and the house seemed satisfied. When I found that my service was turned into faults, myself, with sir Charles Porter, desired a pardon; as those in my station have done before. The king granted it. I was in the country when this lord put in a caveat, because the matter was depending in parliament. But I desired no pardon, and would have had it stopped. Lord Bellamont gave no reason for the caveat, why the pardon should be stopped. The king has sent into Ireland to have an Account of this Charge, which was the same in effect at the council, as this here; and it is now come to a farther accusation. Most of these things called 'Traiterous,' most Protestants will tell you, preserved Ireland.—(And so he proceeded to several things for his Defence, &c.) If any thing requires farther explanation from me, I desire a Copy of the Charge.

Earl of *Bellamont.* This is a business of consequence, and I cannot trace this lord in what he has said. But I have good evidence to prove the Articles. I am a stranger to methods, and I know not whether I am right in forms. I have a charge against sir Charles Porter,* all the same but to the charge of Stores, when I have your order for certain gentlemen to come out of Ireland—And so went on in aggravating the Charge in several particulars, and exhibited the same articles *mutatis mutandis* against sir Charles Porter.

* Lord Chancellor of Ireland, and another of the Lords Justices.

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Sir *Charles Porter*. This is a great attempt, to defame men, and bring their lives and reputations in question. I have done all for the honour of the king, and the good of Ireland. (And so went on to justify himself as to the Articles.)

Lord *Bellamont* replied upon him in several particulars, and desired time for his Evidence to come over.

Mr. *Palmes*. I stand up to method. This is a heavy Charge against these persons. The question is, 'Whether you will refer the matter to a committee, or call in the Evidence?'

Sir *Edw. Seymour*. I remember proceedings in things of this nature. You have heard the Charge. The persons accused ought to have a copy of the Charge, and time to bring in their Answer; as formerly has been done. I speak experimentally. I have had a Charge against me, and it was not proceeded in. * When they give in their Answer, the next step is for your proceeding.

Sir *John Lowther*. This being an Impeachment against your members, you will do justice on all sides. They think themselves innocent, and, no doubt, will deny it. They may have a copy, and give their Answer.

Sir *Edw. Seymour*. I have told you what related to myself. The prosecutors against me never pretended to prove the Accusation. I hope that will not be drawn into precedent. This proceeding is different from other courts —(Replying upon sir Francis Winnington) He has a happy remembrance in some things, and forgets others. He said, 'Let the witnesses come, and then we may well judge what it amounts to.' A noble lord (Orrery) was once impeached here; he put in his Answer; the house thought it frivolous, and put it off to be proceeded at law.† Then the Evidence was concealed, but now it is at the door, and you have the Answer of the party accused.

Mr. *Finch*. That this matter may come to issue, you are in a right method. You have had the Information, and the Answer; and if you are not satisfied, then you have another method, to proceed.

Sir *Christ. Musgrave*. I doubt you cannot deny copies of the Articles to the persons accused, and reasonable time to make their Defence. Lord Orrery did only answer in his place. I would gladly know, if such a misfortune should befall a man, whether you would debar him making use of his paper? But, as for calling witnesses, I would not admit that; for perhaps the Answers of the persons may occasion no farther proceedings against them. I would order them a copy, and not straiten them in time.

Sir *Tho. Littleton*. I hope this high Charge against these persons is not true; but it is for their honour to be publicly justified. It is impossible to be proved, without Evidence, by general Answer.

Colonel Fitzgerald was called in, and gave some reflective Evidence upon sir Richard Reynolds, an Irish Judge; to which he gave Answer.

Sir *Edw. Seymour*. You hear this Charge against sir Richard Reynolds as flatly denied as affirmed. If a man should come and affirm, that I would kill the king, I know no way but to deny it; but when you come to judge it, you will examine whether that man's life and conversation has had any tendency to any such thing. I would do it, in this case. A man in such employments and trusts! This looks not like common sense, that he should be guilty of such discourse. A man must be an idiot. I have known him in conversation and judicature, and it cannot enter my thoughts but that he is an honest and prudent man.

Other Evidences were examined, as to the Articles against the Lords Justices, and sir Richard Reynolds, of no great moment.

Resolved, "That this house will, on the 22d inst. hear witnesses, at the bar of the house, to the said several Articles."

On the 22d, the house proceeded according to order, to hear Witnesses to the Articles against lord Coningsby and sir C. Porter. And the 1st, 2nd, and 5th Articles were severally read, and several witnesses called in and examined at the bar to each of those Articles. And several Letters and Copies of Letters and other Papers, delivered in by the earl of Bellamont and the Witnesses, were also read, touching the matter of those Articles.—On the 20th of January, lord Coningsby and sir C. Porter were severally heard in their places; and being withdrawn, the house resolved to proceed in the consideration of the said Articles, article by article. And on the 29th, the house Resolved, on the 1st Article, "That the imposing the Oath mentioned in this Article was illegal: but that, considering the State of Affairs in Ireland at that time, this house doth not think fit to ground an Impeachment upon it." In the 2nd and 3d Articles no ground of Impeachment appeared. On the 4th, Resolved, "That the Order for the execution of Gafney, without trial, was arbitrary and illegal; but, for the same reason as before, they declined to impeach lord Coningsby upon it." On the 5th, 6th, and 7th, no ground of Impeachment appeared. And lord Coningsby and sir C. Porter were allowed to take their places in the house.

Debate on the Bill for frequent Parliaments.] Dec. 18. The house went into a grand committee, on an ingrossed Bill, from thel ords, for the frequent calling and meeting of Parliaments. On the Lords Clause.

Sir *John Lowther*. I should be glad to know whether, if a lord is in possession of a commoner's estate, how, in the frequency of privilege, the commoner shall get possession again? And this frequency of parliaments may put the king upon asking Money.

Lord *Coningsby*. To bring gentlemen up here, to bring upon them frequent troubles! The lords will infallibly proceed upon their ju-

* See vol. iv. p. 1222. † Ibid. 434.

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dicature, and draw all the causes of England before them.

Mr. *Hutchinson*. To the word 'holden.' It has been used 300 years, without those inconveniences mentioned. I doubt not but the commons will be willing to come up.

Sir *Eliab Harvey*. In the Long Parliament of Charles 2, there was a great session, and no business to be done but what was before them; and most gentlemen went out of town: and then the Bill for Sale of the Fee-farm Rents was brought in, and passed this house. Pray postpone this Clause.

Mr. *Foley*. One of the greatest crimes the minister can be guilty of, is to persuade the king not to pass Bills. I hope that, by no clause in this Bill, we discharge that obligation on the king to pass bills. It is the best time you can take to repair the ancient laws, and I hope you will pass the bill.

Mr. *Palmes*. If gentlemen desire a qualification of this Clause, viz. a Parliament to be holden, I would so do it, as not to lose the essence of the bill. If you postpone this clause you have nothing to debate upon but what you have already thrown out of the house. If gentlemen would have no parliament holden, let them say so, or no bill. If it intrenches upon the prerogative, or the liberties of the people, or the great privilege of the lords spoken of, debate them; but do not postpone this Clause.

Sir *Christ. Musgrave*. All the arguments for postponing the clause tend to throwing out the bill. In Charles 2d's time, a parliament was held, and no Act passed, nor any Judgment was made in the lords house. You are told, 'This will enlarge the lords privilege;' but the commons will have it as well as the lords. But you are told, 'That this not agreeing with the lords will make a difference with the lords, and so you will have no intercourse, and our Allies be lost.' I hope kings will think themselves always bound by their coronation-oath; and the king is no more absolved from his coronation-oath, than the subjects from their allegiance. I think we have a just right to annual Parliaments. If the word 'summoning' do offend, you may qualify a Clause for it. But I see that all this exception is to throw out the bill.

Mr. *Wharton*. I would not postpone the clause, which will give discountenance to it, if not reject it; it is so much the right of the people of England. If annual be too quick, I shall come up to qualifying the Clause, but am not for postponing it.

Mr. *Montagu*. You are now putting the last Clause, which explains the first, before you debate the first. If gentlemen will fairly debate the clause, and qualify it to two or three, let them. But I would not tie the house's sense by such a question. Now you debate upon the Clause, (which was read) I find ambiguity in the word 'holden.' Some think it 'a session,' and others only 'to be assembled' but offer qualification. The government is now as when the annual statute was made. At that time it was a judicature, and you were part of it. The king refused this act once, and it is not for the crown to give reasons for it. To have a parliament annual, it will be too great a burden to the people, and too great a retrenchment to the crown: I move, That those words 'once every year at least,' may not stand in the bill.

Sir *John Lowther*. If this clause be not explained, as it is penned, you may have wrangling, and the crown no power to dissolve them. In Judicature, the lords will not depart from their power, as you will not do in Money; and if the two houses will not agree, must the government stand still? I am therefore for this clause.

Mr. *Wharton*. I think this reason now a slender one. It is time, when those inconveniences happen, (which have been mentioned) to look for remedies. It will be in the king's power to dissolve that parliament, and that is a remedy. Our ancestors had a right to annual parliaments, and I hope you will not take any thing away, though but a supposition of the right. We have found inconveniences for want of parliaments, and I hope we shall have such inconvenience no more.

Mr. *Montagu*. The matter is not 'frequent parliaments,' but 'not every year.' 'Tis said, 'Dissolution makes an end of controversy;' but there may happen such a juncture, before we may have another parliament, the year expired; that we know not the inconvenience of tying the crown down in this case. But passing a clause so ambiguous, a law without telling the meaning of it—That of annual parliaments is as much an antiquated law as any. Annual parliaments were never insisted upon. When perhaps it will not be in the king's power to dissolve. You are setting up a senate of Venice.

Sir *Francis Winnington*. 'Holden' was a word in all ages, and I wonder it should be thought an ambiguous word. The people are possessed of that word by all your laws, and by this proviso of the lords, you will throw it out.

The Bill was reported without any Amendment.

Resolutions with regard to the Land Forces.] Dec. 20. The house came to the following Resolutions. "1. That the number of Land Forces be increased for the service of the year 1694. 2. That six new regiments of English horse be raised, of the same numbers as the Queen's regiment, to be commanded by officers, who are their majesties natural-born subjects. 3. That four new English regiments of Dragoons be raised of the same numbers as the royal regiment, to be commanded as above. 4. That there be 15 new regiments of foot raised, each of the same number as Colonel Selwin's regiment, to be commanded as above. 5. That 83,121 men, including Commission and Non-Commission officers, are necessary for the service of the year 1694, to be employed in England and beyond the seas. 6. That

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210,773*l.* 4*s.* 5*d.* be allowed for the extraordinary charge of the office of ordnance, in relation to the Land-Forces for the year 1694. 7. That 31,058*l.* 8*s.* 6*d.* be allowed for the pay of the general officers. 8. That 100,160*l.* be allowed for Levy-money. 9. That 40,603*l.* be allowed for transports. 10. That 1,990,781*l.* 16*s.* 10*d.* be allowed for the pay of the horse, dragoons and foot, for the year 1694."—And the question being put, That 60,000 be allowed for Hospitals and Contingencies, it passed in the Negative, Yeas 120, Noes 134.

Resolutions with respect to the Navy.] Dec. 21. The house came to the following Resolutions, "That the sum of 2,500,000*l.* be granted to their majesties for the maintenance of the Fleet; of which 1,000,000*l.* to be charged upon land. 2. That towards raising the said supply, a duty of 3*d.* per gallon be laid upon all Foreign Salt. 3. That towards raising the said supply, a duty of 1½*d.* per gallon be laid on all English Salt; to be paid at the salt-works by the master thereof*."

* "The queen during her administration of the government, had issued a Proclamation for continuing all the seamen, belonging to the first, second and third rate ships in pay, during the winter, which was closed with a solemn promise, that such seamen as yielded obedience to it, should be paid their wages, down to Michaelmas of the current year, before the fleet set sail on the next summer's expedition. Now it appeared by the Account laid before the house, that the sum due for wages alone, to these unhappy men, amounted to no less than 1,056,415*l.* And so great was the discontent which want of money, bad victuals, and worse usage had created amongst them, that neither the severest discipline, nor even death itself (for numbers of them were (†) hanged for desertion, and some for demanding their pay, which was called mutiny) could suppress it. When, therefore, these Estimates were brought in, it was also suggested that a sum of money would be immediately wanted for the use of the Navy; and so apparent was the necessity, that 400,000*l.* was granted by way of advance; and the said grant was accompanied with a Resolution, importing, That in case the said sum could be raised on the credit of the exchequer in general, the house would take care to see the lenders repaid with interest, after the rate of 7 per cent., under a caution, however, that this manner of proceeding should not be drawn into precedent for the time to come. They also passed an unanimous vote, That 500,000*l.* should be raised towards the discharge of the Wages due to Seamen. But though the whole kingdom rung with the disorders, abuses and oppressions which had crept into our marine, and even this partial provision in their favour seemed to imply a suspicion, that the Accounts delivered in were not over fairly made up, the house shewed no disposition to take the State of the Navy into their serious consideration, or to make such wholesome provisions as might prevent the enormities complained of for the time to come; on the contrary, when certain low but well-informed men, offered, in print, to furnish them with sufficient matter to warrant an instant inquiry, instead of receiving the countenance and encouragement they deserved, they were brow-beat and repulsed, as if they themselves had been the criminals." Ralph.

(†) On which truly melancholy occasion, some of the Tars themselves set forth a Hand-Bill, which began with these words: "All Gentlemen Seamen that are weary of their lives, and desire to serve K. W. on board the Navy royal, shall have, for encouragement, fair promises and no performances, as follow: For each able seamen, 24*s.* per month, to be paid when he can catch it, and be hanged for mutinying if he demands it, &c."

As also a Ballad, in which are the following Stanzas.

But now suppose they had done ill
In asking pay too roughly, still
When 'twas their due, and need so prest,
They might have Pardon found at least.
The king and queen some merciful call,
But seamen find it none at all.
To robbers, thieves, and felons they
Freely grant Pardons every day;
Only poor Seamen, who alone,
Do keep them in their Father's Throne,
Must have at all no mercy shewn,
Nay, tho' there wants faults they'll find one.

In the last Stanza are these lines:

God bless our noble parliament,
And give them the whole government;
For England's sinking unless they
Do take the helm and better sway.

Debate on the Bill for frequent Parliaments.] Dec. 22. The ingrossed Bill, from the lords, for the frequent calling and meeting of Parliaments, was read the third time.

Sir *Edw. Seymour.* The dislike I have to this Bill is, because I think it not for the public service. I know not where the thanks of it are due; but I expected the Speaker would have told you of the great disorder of sending down this bill. If after a bill be once rejected, and you receive it, you have acknowledged, in some sort, their authority greater than your understandings: Where the remedy is worse than the disease. You have shewed your like of frequent parliaments; you have wiped off the rest of your laws in this Bill. But now you charge the electors trouble to come here, and all we do is to be sent home again. This is all the good of the bill. Though it is faced with other things, yet the intention is dissolving this parliament. The question is much altered from the last age, when they thought to perpetuate themselves: the reason was, they were fitted for their business, but this parliament is not fit, the lords tell you. We give them powers by it, when every day we are complaining of their judicature; and this bill subjects you to their dependence. This is

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very extraordinary. The king calls you, by his writ, to advise him, and are you weary of advising him, and would be sent away? This was never so before. It does, in the first part, do nothing but make the thing worse; for, by virtue of this bill, you may never have parliaments more. You give the lords power to dissolve parliaments; and, as Bathurst said, 'This is for the lords to pay their debts without money.'

Mr. *Godolphin.* I hope, that, by the lords Amendments, you may come to conference. As for the matter of the bill, it is for frequent calling and electing parliaments, and for dissolving this. I am against the timing of it: elections in boroughs will create heats in boroughs, and here; and, till you set the manner of elections right, you repair the top of the house, and neglect the foundation. Besides, in respect of your affairs, you are in war, and must have men and money. What are you doing? Now, before you give any of these Supplies, you declare yourselves dissolved, and are ashamed of what you have done. I think this bill is not for the safety of the government, and I humbly beg leave to have it rejected.

Sir *Christ. Musgrave.* I hear many objections against the bill that came from the lords. I think it is the right of either house to send bills. It is not regular to take notice of what is done in either house. There is nothing so much for our constitution as frequent parliaments, and yet, with all this, I am not satisfied with the bill. As for the dissolution of this parliament, I like that well, and I think it absolutely necessary; but when parliaments meet, I would have them do something. There is no use for explaining the word 'holden.' But the last Clause is giving the king power to chuse whether the parliament shall do business. If the king calls a parliament, and 20, 30, or 40 of the people complain of a grievance, the king has justified himself, he has a law to warrant him. If you find that king James the 1st made a long prorogation, and Charles the 1st was long without parliaments, this bill warrants that Clause. The king may call them, and send them home without doing any thing.

Col. *Titus.* It is no objection that this bill came from the lords. I fear not a good thing from them. We have had none a great while. The lords prescribe us times when to meet, and when to be dissolved. St. Paul desired to be dissolved; but if any of his friends had set him a day, he would not have taken it well of them. Though I desire to be dissolved, shall those, that are not so good Christians as myself, not like advice from friends, though they like it ever so well themselves? As for the disobligation to the people; good parliaments they desire, and I never saw long parliaments good ones. A picture new drawn may be like the person it represents; but in time the colours will fade, and it so alters from itself, that no man can know what it represents. If we would have a picture like, it must be new drawn. And this bill is to celebrate their funerals more than their nativities. There are in all things great inconveniences, but where there are greater conveniences they should prevail. I am for the bill.

Sir *John Thompson.* I second the motion for rejection of the last Clause of the bill. The greatest argument I have heard against the bill is, that it intrenches upon the king's prerogative. Every body is tender of the prerogative, and I hope we are, too, of our liberties. A word was said, 'That the reason of the invasion of our liberties was the necessity of present circumstances.' At Oxford, in the Impeachment of Fitzharris, the case was, the lords would not judge commons, their right was to judge none but peers; and that parliament was dissolved *. But had the crown then as much necessity for Money as now, they had sat on. Money is the reason of your sitting; and when that is gone, there is no more need of you.

Mr. *Boscawen.* To the matter of the Proviso. I see no use at all of it, in 3 or 400 years. Prorogations have been useful, so may dissolutions be the only cure, when any difference happens between the two houses, and is a remedy without this Proviso. I am against it.

The Clause was rejected.—A motion was made, and the question being put, That the last Clause in the Bill, viz. "That a Parliament shall be understood to be holden, although no act or judgment shall pass within the time of their assembly," be left out of the bill: it passed in the negative, 222 to 131. And the bill was rejected, 197 to 172.

Conference on the Bill for free and impartial Proceedings in Parliament.] Jan. 5, 1693-4. The following Reasons to be offered at a Conference with the Lords, for rejecting their Amendments to the Bill touching free and impartial Proceedings in Parliament, were read and agreed to by the house, viz.

"That the leaving out the last Proviso, with part of the clause preceding, and supplying the whole with words that have no relation to the said Proviso, is not generally practised in cases of Amendment. That the Speaker of the House of Commons, being frequently a person eminent in the law, is by his constant attendance in that chair hindered from his practice in the courts below; so that if he be made incapable of other office or employment, the commons in the choice of their Speaker will prejudice the person they design for that employ.

The said Reasons, together with the Bill, were then left with the Lords; and the same day the lords declared by Message, That they did not insist on their Amendments, but had agreed to the said Bill.

Protest thereon.] Leave having been asked and given for any lord to dissent to the above-said question, the lords whose names are underwritten do dissent as followeth: "Because that an Act that complains of Corruption in former Parliaments, and designs to provide against it for the future, ought not, in our opi-

* See vol. iv. p. 1332.

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nion, to contain a Clause to allow any one member of the house of commons to be excepted from the general rules prescribed to hinder all the members from taking employments, especially the Speaker of that house, who, if he can be capable of being corrupted, may, by himself alone, do much more mischief than a great many of the members can do together; and this Clause allowing the Speaker capable of such advantages and employments, which all other members are debarred from, by virtue of this act, seems to establish the possibility of corruption in him by a law, which we conceive, would be scandalous for the present, and of very dangerous consequence in times to come. (Signed) Rochester, H. London."

Vote to acquit the Commanders of the Fleet.] Jan. 10. After consideration of the Expedition at sea, the last Summer, and hearing the Admirals, and reading the Letters and Order in relation to that business, the lords resolved upon the question, That the Admirals who commanded the Fleet last Summer have done well in the Execution of the Orders they received.

Protest thereon.] Leave having been asked and given for any lords to dissent from the aforesaid Resolution, the lords whose names are hereafter subscribed dissent in the following Reasons: "1. Whereas by an order of the Admiralty, bearing date the 19th of May last, the Admirals were to direct sir George Rooke, that, after their parting with him, he should steer such a course for his passage to Cadiz, as should be thought most safe by a council of war, with relation as well to the Brest Fleet, if gone out to sea, as the Toulon squadron: it does not appear to us, that there has been any Council of War from the 22d of May to the 4th of June, which was the day the Signals were given for their parting from the Streights Fleet; which last council of war was not called till after the signals for parting were given, and occasioned by the accident of the Turkey Fleet being becalmed. 2. That though it does appear by the result of the council of war of the 4th of June, that they had no intelligence where the enemy was, yet notwithstanding we do not find in that council it was so much as proposed, how to get intelligence where the Brest fleet was, pursuant to the order of the Admiralty of the 19th. 3. We conceive it to be the duty of an Admiral or General to use his utmost endeavours to discover the motions of an enemy without an Order from his superiors, and much more when he has one. 4. Not sending one or more good sailers to find out, if the French Fleet were sailed from Brest, as also what course they steered, so as to give intelligence to our main fleet, at a station appointed, before they parted with sir George Rooke, was, as we conceive, the chief cause of the Misfortune that happened to the Turkey fleet. 5. It appears by the Admiral's own letters to the Admiralty of the 14th of July and 13th of Sept. last, that a Council of War held on the 22nd of May, they were of opinion, that that part of the Admiralty's order of the 19th, which related to the course sir George Rooke was to steer, was unreasonable and impracticable, yet they did not send up to have it explained, though the Fleet did not sail till the 13th: this looks as if they rather designed an artificial excuse for doing nothing, than the discharge of the trust reposed in them. 6. That sir George Rooke's Narrative, which might have given a farther light to the enquiry into the Admiral's conduct last summer, was not allowed to be read. 7. This Vote seems to approve of the behaviour of the Admirals in the last summer's Expedition, which differs, as we conceive, from the opinion the greatest part of Europe has of it, and may be of ill consequence, by giving our allies no very fair prospect of better success. 8. Because by this Vote is prevented any further Enquiry into the last year's Miscarriage, relating to the Admirals, if any new matter should arise from new evidence; and it may stop any prosecution of the king's in case he should think fit to proceed farther in that affair. (Signed) Bolton, Berkeley of Berkley, Strafforde, Oxford, Ossulstone, Clifford, J. Bridgewater, Devonshire, Stamford."

The E. India Company obtains a New Charter.] Jan. 19. The East India Company having on the 11th of November last, obtained a New Charter, whereby they were impowered to raise the sum of 744,000*l.* to be added to their general joint-stock, the subscription of each person not exceeding 10,000*l.*; several merchants and others, on the 7th of Dec. petitioned the commons for erecting a new East-India Company. Upon which, the house examined the Charters of the old Company, the book of new subscriptions, the state of their present stock, and the Petition above-mentioned, and after mature deliberation, this day resolved, "That all the subjects of England have equal right to trade to the East Indies, unless prohibited by act of parliament."

Order for observing Decorum in the House.] Jan. 22. To the end that all the Debates in this house shall be grave and orderly, as becomes so great an assembly; and that all interruption should be prevented by it: Ordered and declared, "That no Member of this house do presume to make any noise or disturbance, while any member shall be orderly debating, or while any bill, order, or other matter shall be in reading, or opening: and in case of such noise or disturbance, that Mr. Speaker do call upon the member by name making such disturbance, and that every such person shall incur the displeasure of this house."

The King refuses to pass the Place-bill.] Jan. 25. The Bill for rendering all members of the house of commons incapable of Places of Trust and Profit, which had been brought in the last session, under the title of 'a Bill touching free and impartial proceedings in Parliament,' and after passing the commons had been rejected by the lords, was now again set on foot, and went through the lords as well as the commons; so that when the king came this day to the house of peers to pass the Land-tax bill, it

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lay ready for the royal assent, but the king thought fit to refuse it.

*Debate on the King's rejecting the Place-Bill.**] Jan. 26. The house of commons went into a grand committee on the State of the Kingdom.

Sir *Tho. Clarges.* I am sorry for the occasion of the committee. I will not say any thing concerning his majesty, only of the Evil Counsellors that presumed so to advise the king. Former practice hath been to have the bills to be passed, read, and debated, in council; neither ought a parliament to be called without a council. Formerly, just Bills and Grievances were first passed; and after that, the Money given. Now, in great respect to his majesty, the order is inverted, and our Grievances denied redress. I cannot think the king to blame, since his Declaration hath been to concur with us in any thing, to make us happy. I should have been glad if the counsellors, or some of them, would have given some reason for the rejection of this Bill. I believe, the people that sent us up will hate us for doing nothing but giving away their Money, in effect, one to another, as in the Rump, which was their ruin, and may be ours. I conclude with a motion, 'That the Advisers of the Rejection of this Bill are enemies to the king and kingdom.'

Mr. *Brewer.* All agree, that the king hath a negative voice to Bills: nobody hath a greater reverence to parliaments than myself; but the Bill rejected was liable to exceptions. I gave my vote to make the prince of Orange king, but will never give my vote to unking him. I think it proper, in this case, for the king to exercise his negative voice.

Sir *John Thompson.* When I gave my voice to make the prince of Orange king, I thought to have seen better times than these. If this matter go, and nothing be done, I expect nothing but that we shall be underlings to courtiers. It is fit to consider the State of the Nation in all parts of it; as in your quotas; so if you consider your Fleet, your convoys: look upon all Miscarriages, and you may hunt them to the cabinet; but there we must leave it, for we cannot find the hand that does the mischief. King Charles I. was the first that set up the Cabinet, but he was taken down for it; so was king James, his son, and made a vagabond. All debates should be in council; now all things are huddled up. Our affairs are secret, but our Miscarriages open. The Admiralty told us where the Miscarriage lay: I hope that, by an Address, that will be laid open with the rest; and I conclude with the same motion that Clarges made.

Mr. *Bromley.* I shall be careful not to speak about the negative voice. I would have gentlemen consider the confidence the house put in his majesty, and the vast sums given, and yet this Bill rejected. The preamble of the Bill declared former Corruptions, and suspicion of the like now: the Bill offers Remedy, but we are denied it; which speaks this language, 'That the king will have us still corrupt.' We have done well for religion, but all in vain, if we enjoy not our liberties.

Mr. *Hutchinson.* Neither our zeal for the king, nor the sums given, can oblige so much as the false counsellors, who are worse than Jacobites. They may now object, 'That we have only changed our prince, but not for the better, at so many millions expence.' I will not dispute the negative voice. The nature of the Bill was to take off scandal, to show the world that we give our votes, and do not sell them. Our own actions have given occasion hereto, by carrying on the Bill in former sessions with fondness of it, but in this we were very cool: it may give the king occasion to think that we know not what to do; that the members of this house are so made, for their ingenuity and skill to manage us, rather than their offices, which they either mind not, or know little of.

Sir *John Lowther.* I find it difficult to say any thing, in my post. I know myself to be an honest man, and I am an Englishman too. I neither have gotten by the court, nor ever will. I believe there may be evil counsellors, but who they are will be a dispute for ever. We are ever unfortunate, because of different Parties, two at least, so that one dares not trust the other, nor speak plain; and what can be done by the king, when one side informs him evil of the other? Now, cure you but this, and all will be well; all will speak plain. I would propose to you, to contrive some way that the king may have a Council that both you and he may confide in.

Mr. *Peregrine Bertie*, jun.* What was proposed by the member before, makes me think the question first moved most necessary.

Mr. *Harley.* I think Lowther has told you the true state of the case. I think the greatness of his estate and mind makes him too great to be suspected in this matter. I hope that, in due time, something may be done therein. At the first Revolution, if care had been taken, Parties might have been prevented, and we should have had but one, and that for the good of England; but industry was used by some to the contrary. I conclude, that we can do no less than put a mark on some, by our Resolution on the question.

The question passed, with only two or three 'Noes' to the contrary, as follows:

Resolved, "That it is the opinion of this Committee, that whoever advised the king not to give the royal assent to the Act touching free and impartial Proceedings in Parliament, which was to redress a Grievance, and take off a Scandal upon the proceedings of the commons in parliament, is an enemy to their majesties and the kingdom."—Which was agreed to by the house.

* Sent to Mr. Grey by Mr. Wilmot.

* Second son of the earl of Lindsey, and Vice-chamberlain.

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Mr. *Jeffreys*. If the Council be so divided, it may be presumed that one party is in the right, and the other in the wrong. I would have the house address the king, That he would please to discover by what Advice the Bill was rejected.

But there was a general 'No!' thereto.

Mr. *Harley*. The house has been pleased to give their opinion in the former question, but you ought also to take some care of yourselves. You are disappointed of Remedy against Corruption. The king, indeed, hath a negative voice; so have you in Money; and when the people give, their minds should be free, that they are in condition to give. We ought, therefore, to make some Representation to his majesty, 'That whereas we lay under great imputation of Bribery, we were endeavouring to clear ourselves of it, by the Bill rejected.' I move, therefore, 'That we humbly represent to his majesty how rare the instances are, in former times, of Bills being rejected; more especially where Money has been plentifully granted.'

Sir *Francis Winnington*. The last gentleman calls me up. I am for the negative voice, and prerogative; but if the negative voice shall extend to all good bills, it is very much misused. We have been always busy in giving Money, and have always come up to that which has been required. I think very well of many gentlemen that have offices; but I believe they would not have had offices, if they had not been members of parliament. This Bill, and the Triennial Bill, tend immediately to keep ourselves uncorrupt; and if the king shall make use of his negative voice, in such a case, it is very hard. I humbly propose, 'That we may address, that such Rejection may be a means to alienate the hearts of the people.' I would not have farther proceeding in Money yet; now we have given two millions for present occasion, we may have some breath.

Mr. *Paul Foley*. I believe the king hath a negative voice, and it is necessary it should be so; but if this be made use of to turn by all bills, and things the court likes not, it is misused; for such a prerogative is committed to him for the good of us all. It hath been a great scandal to us, and this bill was for clearing us in some measure, and yet divided in so small an instance! I conclude with the motion that Harley made, 'To represent how few the instances have been to deny Assent, when so much Money has been given.'

Mr. *Howe*. I believe our mischief arises from what an honourable member (Lowther) observed, from Parties in council, who thereby raise themselves upon one another. I have never changed party. If others have left me, let them answer for it. Why should we meet here, if what we do for the good of our country be to no purpose? I was for deposing king James, and for setting up king William: but we have committed a great villainy, if we settle not our Liberties on a true foundation; but if we do that, we have done a glorious work. A Bill in Richard's time was presented; the Bishops protested against it, but the king passed it, 'Because,' he said, 'he was bound by his Coronation Oath.' A Petition in parliament was presented in Henry 4th's time, wherein it was said, 'That what was desired was not against the Prerogative, because for the good of the commons.' I hope we say nothing here amiss, since we have so lately asserted the Divine right of this house. I say, it was no news anciently to oblige the king to call a parliament, and to force kings to call them, and to swear to them after; and so Magna Charta, and Charta de Foresta, were given. In the reign of ***** † the archbishop of Canterbury (for then the Bishops were for the people's good) advised the king to pass the bills tendered. I conclude with Harley's motion, and others, 'That an humble Representation be made to his majesty, &c.'

Sir *Walter Yonge*. I would have gentlemen consider whether this is the only bill rejected for our good. I would not have the Triennial Bill named in the question, but I desire the words 'other public bills,' in general, may be in the question.

Mr. *Clarke*. I second the same.

Sir *Henry Goodrick*. To agree so solemnly, in such an Address, is so severe upon the king, that I cannot agree to it. His majesty being so much abroad for our service, venturing his life almost ever since his coming to the crown, had made him not so acquainted with methods of parliament. I would humbly move therefore, 'That an Address be made upon the first Vote only."

Mr. *Charles Montagu*. I shall always be for the liberties of the people, and for the prerogative of the crown. If the crown hath a negative voice, then why not exercised on this bill, as well as on any other; It was formerly only, and that in the highest times, and by the highest men, that the king cannot deny us bills of right and justice. But this is for altering your constitution, not to allow the king a negative voice.

None spoke in the Debate, but those before, only sir Charles Sedley, who was not heard. But almost all before, and many other also, spoke to the stating the questions, about which there was very much debate. The questions at last were agreed to, the first as above, the second as follows. Some debate also was; 'That it should be an humble Address,' which was taken to be of a softer nature than 'a Representation,' though this was not so hard a word as 'a Remonstrance.'

Resolved, "That a Representation be made to his majesty, humbly to lay before him, how few the instances have been, in former reigns, of denying the royal assent to bills for redress of Grievances; and the great grief of the commons for his not having given the royal assent to several public bills; and particularly to the Bill touching free and impartial Proceedings in

† Sic Orig.

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Parliament, which tended so much to the clearing the reputation of this house; after their having so freely voted to supply the public Occasions:" Which was agreed to by the house, and a Committee was appointed to draw it up.

The Commons' Representation to the King thereon.] Jan. 27. Col. Granville reported the following humble Representation to his majesty, viz.

"We your majesty's most dutiful and loyal subjects, the Commons in parliament assembled, think ourselves bound in duty to your majesty, humbly to represent, that the usage of parliament in all times hath been, that what Bills have been agreed by both houses for the redress of Grievances, or other public good, have, when tendered to the throne, obtained the royal assent; and that there are very few instances, in former reigns, where such assent, in such cases, has not been given; and those attended with great inconveniences to the crown of England; especially where the same has been withheld by insinuations of particular persons, without the Advice of the Privy-Council, thereby creating great dissatisfactions and jealousies in the minds of the people.—Your Commons therefore, out of their sincere desire of the welfare of your majesty and your government, and that you may always reign in prosperity and happiness in the affection of your subjects, cannot, without great grief of heart, reflect, that, since your majesty's accession to the crown, several public bills, made by advice of both houses of parliament, have not obtained the royal assent; and, in particular, a Bill intituled, 'An Act touching free and impartial Proceedings in Parliament,' which was made to redress a Grievance, and take off a scandal relating to the proceedings of your commons in parliament, after they had freely voted great supplies for the public occasions; which they can impute to no other cause than your majesty's being unacquainted with the constitutions of parliament, and the insinuations of particular persons, who take upon them, for their own particular ends, to advise your majesty contrary to the Advice of parliament; and therefore cannot look upon them but as enemies to your majesty and your government.—Upon these considerations, we humbly beseech your majesty to believe, that none can have so great a concern and interest in the prosperity and happiness of your majesty, and your government, as your two houses of parliament; and do therefore humbly pray, that, for the future, you will be graciously pleased to harken to the Advice of your parliament, and not to the secret advice of particular persons, who may have private interests of their own, separate from the true interest of your majesty, and your people *."

* Instead of this last Paragraph, the following was originally drawn up by the Committee, but, on the Report, rejected by the house: "We beg, sir, you will be pleased to consider us as answerable to those we represent: and it is from your goodness we must expect arguments to soften to them, in some measure, the necessary hardships they are forced to undergo in the present conjuncture; and therefore humbly beseech your majesty, for the removing all Jealousies from your people, (without which the parliament will be less able to serve your majesty, or to support the government) to be pleased to follow the course of the best of your predecessors; and to direct some expedient, whereby your majesty, your parliament, and people may reap the fruit designed by that Bill, to which your majesty, by ill advice, was pleased so lately to deny the royal assent."

The King's Answer.] Jan. 31. The Speaker reported, That his maj. had been pleased to give the following Answer to the Representation:

"Gentlemen; I am very sensible of the good affections you have expressed to me, upon many occasions, and of the zeal you have shown for our common interest: I shall make use of this opportunity to tell you, that no prince ever had a higher esteem for the constitution of the English government than myself; and that I shall ever have a great regard to the Advice of parliaments. I am persuaded that nothing can so much conduce to the happiness and welfare of this kingdom, as an entire confidence between the king and people; which I shall, by all means, endeavour to preserve: and I assure you, I shall look upon such persons to be my enemies, who shall advise any thing that may lessen it *."

* In the Jacobite paper, called, "The Price of the Abdication," is the following Passage: "It might have been expected, that a direct and categorical Answer should have been given to so home an Address; yet it seems the house, for all the millions given, must be treated only with whipt cream, or perfumed air; which would not have satisfied, if the *Adepti* had not found their account in a previous treat of a 23,000*l.* distribution." The same writer also adds, "That if any of our preceding kings had given such an Answer upon a Petition of Right, or the like occasion, it would have enraged an hornet's nest: and no less than the voting a fresh Address, or adjourning till they received a more satisfactory Answer, would have contented the house." And, again, "How can any say, 'He hath a great regard to the Advice of Parliaments?' When, at that very same instant, neither the Advisers of the rejecting the Bill are delated, nor the prayer of the Representation touched upon. 'How can one be persuaded, 'That nothing can so much con-'duce to the happiness and welfare of this 'kingdom, as an entire confidence between the 'king and people,' without explaining what people are intended? For the complex body of the people, and Pensioners, have very different interests; and the majority of the representative people, were, at the voting the Representation at least, no such confidents, neither when the *Le Roy advisera* was pronounced, could it be truly said, 'That he would, by all means,

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Debate on the King's Answer.] Feb. 1. Mr. *Paul Foley.* I am of opinion that the king's Answer to the Representation does not come up to what is aimed at; that we aimed at a settlement in the point, to have all our reasonable bills of right to be passed; but since it can be no otherwise done, we must tack our Grievances to our Money-bills; for we have just Fears and Grievances as long as we have a standing Army. The king tells us, 'He has a great regard to our constitution;' but it appears not that he understands our constitution, which he may take to be to reject our bills of ever so just Grievances. I move 'That an humble Address may be made to the king for a farther Answer.'

Sir *Robert Cotton.* What is said in the king's Answer tends to full satisfaction (And so reads each Paragraph, and with strained inferences descants thereon, like a courtier.)

Mr. *Hutchinson.* The king says, 'He is sensible of the good affection we have expressed on *many* occasions:' I am sorry it should not be expressed on *all* occasions. The king may still reject our bills as before, for any assurance given us in his Answer. I think that, unless you keep the love of the people (whose Money you have freely disposed of) by securing to the people what the king promised at first, good correspondence with the king cannot be. (And so reflects on Officers.)

Sir *Tho. Littleton.* It is hard to reflect on his majesty's words in such wise, by making such nice distinction betwixt 'many occasions,' and 'all occasions.' I think that his majesty's Answer is very pat to the purpose. You make a prayer at the end of the Representation, and his majesty ties up his Answer to that prayer, which desired nothing farther than is expressed in the prayer. Would any man desire that the king should take occasion to say, 'That he is sorry he did not pass the Bill, and that he will do so no more?' These expressions would not become his majesty. I think it hard that such reflections should be upon those in Office, to be represented false to their country: pray let them be proved false, and punish them as severe as you will; but till such falsity is proved, pray let no man suffer for doing double duty to his king and country both. We have many enemies without doors, some at the very doors of the house, others at cabals, who would be glad of our dissatisfaction with the king's Answer. But I, for my part, have a way how to guide my vote always in the house, which is to vote contrary to what our enemies without doors wish.

Sir *John Thompson.* The member that spoke last, hath a very uncertain rule to guide his voting, for our enemies may alter their opinion of government, and all things, and daily do so, to make room for their better fortunes. I do not take the debate to be betwixt this house and the king, but betwixt this house and the ministers, which if we remove not, they will remove us, and if your interest cannot do it,

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endeavour to preserve it; when, contrary to expectation and interest, if the maxim laid down be true, the prince rejected so solemn an Advice. Since, therefore, such apparent flaws may be found in the assertory part, it will be worth our enquiry, how they are amended in the promissory part of the Answer, in these words. 'And, I assure you, I shall look upon 'such persons as my enemies, which shall advise any thing that shall lessen it.' Even Oracles never wanted ambiguity. The commons declare who were enemies to the king and kingdom: here those are characterized who must be reputed enemies to the king only. It is not *tanti*, whether they be enemies to the kingdom or not, so as they be fast friends to the king. How dexterous soever the Advisers of the Answer thought themselves, the not complying with the parliamentary Advice, and the so loose answering an Address of that importance, will more than once rivet it in the minds of the people, That a Pensionary Party, however unfaithful of the interests of the body of the people, are only to be caressed, and have the character of friends; and the true patriots of their country must be calumniated with the epithet of enemies, who lessen the confidence between king and people."

During this Session also, another Pamphlet was published (which is still extant in the State Tracts of this reign) under the Title of 'A Dialogue between Whig and Tory,' with a free Dedication to king William, in which is the following remarkable Passage: "In the next place, sir, let me desire you to avoid concerning yourself in Elections of members in parliament, or influencing them when chosen. The parliament is a sacred part of the English constitution; and like the Israelites Ark of old, is not to be touched profanely, but with great danger to those who touch it so. And, therefore, Sir, it will be your true interest to leave the people free to their choice, and the members free to their opinions when chosen. It is still fresh in our memories, how much the practices of the late reigns, in corrupting Elections, and closetting members of parliament, enraged the nation, and they had reason to resent it; for if, for the sake of a vote, a member of parliament shall be placed in an office of trust he is not fit for, this is destroying the government two ways at once: for to speak in the phrase of the ministry, it is making a parliament of Clouts, and an officer of Clouts at the same stroke. Rejecting Bills offered by parliament, of public benefit, and for securing our ancient government, and the fundamental Rights of the subjects, was highly displeasing to the nation also in the late reigns and will be so in all reigns; as was likewise the denying the people their undoubted right of frequent parliaments. They had, also, in the late governments, an invention to make a pump of the parliament, and by pouring a pint of water, to fetch out a tun. This was justly most provoking to the nation, and treasured up wrath against the day of wrath."

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when the government hath need of you, what will become of you hereafter? I take the king's Answer to be *responsum commune*, which serves for any thing, and at any time, either at the beginning, in the middle, or at the ending of a parliament. I would humbly address the king for a farther Answer, more satisfactory.

Mr. Comptroller *Wharton*. I am sorry that any exception is to the king's Answer. It would be a difficult thing to draw up so many lines as the king's Answer doth consist of, so exactly, that it should not be possible for men of fine understanding to take some exception thereto. I take the Answer to be a promise, that, for the future, his majesty will pass our public bills. I find that those that are most dissatisfied, will not come up, neither can, to say that the king has not a right to reject bills: yet I am of that mind, that the ministers that advised, did ill in so advising.

Mr. *Bathurst* spoke as usual.

Sir *Charles Sidley*. I know not how a crowned head can descend to other Answer. But an offender at the bar may be expected to say he will do so no more. (In what else he said he was not well heard.) I move, to rest satisfied.

Sir *John Lowther*. The exceptions taken to the king's Speech, I think, are but few, and not strong. I think the exception by a worthy member (Hutchinson) was rather a grammatical nicety. Next, I wonder much at an expression by some that have spoken, 'that the king was altered himself.' Upon the whole, I think it a gracious Answer.

Col. *Granville*. I think there is but one objection to the king's Answer, and that is, that it is no Answer at all, and therefore, for the same reason, I think fit to make a Representation. I am dissatisfied with an insufficient answer. I therefore declare, I am for farther application for a farther answer.

Col. *Mordaunt*. I question whether the Answer called 'Gracious' yesterday be so to-day. I think it doth not answer the intention of the gentlemen that drew the Representation, neither doth it answer the body, but I am of opinion that it answers the prayer at the ending thereof. I would willingly have a better Answer, but not by jangling and farther representing, which will show we did not well at first. But I would have us stay and observe what the king will do, for the future, in passing bills.

Mr. *Henry Herbert*. Your prayer is 'That, for the future, &c.' And the king answers, and says, 'He shall have regard to Parliaments;' which I take to be a promise for the future.

Mr. *Harley*. I could have wished his majesty's Answer so clear, that all might have been satisfied: I could wish it had been more categorical and particular, and not an Answer by inference only; for one man will make one inference, and another infer quite the contrary. The king hath formerly said, in public Speeches and Declarations, 'That he will be ready to pass all Bills for the satisfaction of his people;' and I could have wished this had been passed. I move to address for a farther Answer.

Mr. *Norris*. I think, the next time a public bill is rejected, we shall have the best occasion to address for a farther Answer.

Mr. *Hungerford*. The king says, 'He will have regard to the Advice of parliaments,' yet he may have greater to the cabinet-council, to the privy council, or any single person.

Lord *Digby*. If no representation had been, I could better have let this matter have rested; but since you have appointed this day solemnly to take into consideration the king's Answer, I think fit to expect farther answer; for this is so general, that the answer will serve any thing, and for the future will be the same to all addresses, as one agreed to by the commons. This would not have been an answer in former reigns; in this I expected a much better.

Admiral *Russel*. I do not agree at all with the lord that spoke last before me. I do not fear the king will make this answer to every thing; for to me it seems plain that he promises for the future. I think, very great reflection hath been made upon those that have Places. I acknowledge I have one, but I am as honest therein as any man that hath none. I move, That the house should be satisfied with this Answer.

Sir *John Knight* rumbled nothing to the purpose.

Sir *John Morton* takes down sir John Knight, (who had asked leave to go into the country) to order, and says, You have given that worthy member leave to go into the country, and I desire no farther disturbance may be given to the house by him.

Brigadier *Leveson*. I observe an objection, 'That the king's Answer may serve to any thing.' Then why not to the Representation? At such a rate of receiving the king's Answer, I think it the best way, that those that penned the Representation, should have gone to have penned his majesty's Answer.

Mr. *Boscawen*. Before the question be put, 'Whether you will address the king, whether a farther Answer should be required, or not,' I would have the condition of our affairs considered, and the posture. Hannibal *ad portas* is our condition. I do not justify the Answer as very exact and categorical. In some times, and some seasons, some things are to be passed by, and at this time I would have us rest satisfied.

Sir *Christ. Musgrave*. You have a great matter before you, 'Whether you have an Answer given to your Representation, or not, of which so much has been said, that I have little left to say. I do not find the king hath considered the grief of the commons, nor of the passing our bills. The prospect is melancholy: for, suppose that we should have peace, why truly what can we expect by such an Answer, which I think neither an answer to the body, nor to the prayer, of the Representation? He only says, 'He will have a regard to parliaments.' For my part, I desire a good cor-

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respondence, but can any one think less could be said? And plainly nothing is said, 'That our Bills shall be passed for the future.' But the king's Declarations have been such, that blame cannot be laid to the king; but it must be some ill private counsel; since I hear from those of the council, and those of the cabinet, that they know nothing of this Answer. I move for a farther Representation.

Sir *Walter Yonge.* I cannot agree, 'That no consideration hath been.' For the king told you 'He would consider, and give Answer,' and so, no doubt, he hath considered. I take the king's Answer to be plainly, and in effect, that he owns your constitution, and will pass your bills without taking Advice of any to the contrary.

Mr. *Smith.* Was I not afraid that the negative voice should be made a farther use of, I would have let this question have rested, most contentedly. The question, 'Whether we should address farther, or not,' is a dangerous question: therefore I think it best to wait, and see what will be done at the next tender of our bills. If peace comes, I am in no such fears as some have suggested, for there will be so great a debt upon the crown, that it cannot set up for itself.

The question being put, That an humble Application be made to his majesty, for a farther Answer to the humble Representation of this house; it passed in the negative, 229 to 88.

Feb. 6. The house agreeed with the Resolutions of the committee of ways and means, 1. "That towards the maintenance of the Fleet, and Army for the year 1694, a Fund of 140,000*l.* per ann. be raised, and vested in their majesties for the term of 16 years, for recompensing such persons, as shall advance 1,000,000*l.* 2. That the Impositions, lately resolved to be laid on Salt, be part of the said fund. 3. That for the farther answering, and securing the said Fund, one moiety of the duties of Excise, granted to their majesties, in the 2nd year of their reign, be granted and continued to their majesties, after the Moneys charged upon the said Duties be satisfied."

The Million Annuity Bill passed.] Feb. 8. The king gave the royal assent to 'An Act to supply the Deficiencies of the Money raised by a former Act, to secure certain Recompences to such as should advance 1,000,000*l.* towards carrying on the War against France:' and also, 'An Act to prevent Disputes and Controversies concerning Royal Mines.'

Mr. Squibb's Account of Moneys &c. paid to Members of Parliament.] Feb. 9. The house having ordered Mr. Robert Squibb to return an Account, to the Commissioners of Accounts, of all Money paid by Wm. Jephson, esq. to Members of Parliament; the said Mr. Squibb did give an Account, upon oath, as far as he could collect from Mr. Jephson's Papers, of all Payments made to Parliament-men, over and above what the Commissioners have already laid before the house.

"The said Commissioners of Accounts have employed their utmost diligence to observe the commands of this house: and, upon strict Examination of the several persons, upon their oaths, to whom the public Money hath been issued, they find divers Payments made to Members of Parliament, which appear not to be upon extraordinary occasions; and therefore are not herein by them exhibited; viz. such as are, for the ordinary service of their Offices; or, in consideration of Estate purchased; or, where their names are used for other persons; or, for Rent, payable from the crown for lands, by contracts made many years since; or, in repayment of money lent, or interest for the same; or, to be returned beyond sea; or Charity-Money to French Protestants; or, to such as have been members of the late Convention, but are not members of this parliament, or are now deceased.—The other Payments, as far as yet is come to the knowledge of the Commissioners, hereafter follow; together with an Account of such Grants of Money, or Lands, as have passed under the privy seal, now appearing to them: and the Commissioners will also further be ready to present to the house such other Payments of the like nature, as shall come to their knowledge.

Payments made by Wm. Jephson, esq. viz.

	£.	s.	d.
To Col. Charles Godfrey, upon his Annuity of 1000*l.* per ann. by quarterly Payments, from May 24, 1689, to June 5, 1691 - -	2,799	14	6
July 2, 1690, to T. Papillon, esq. Free-Gift, and Royal-Bounty -	150	0	0
To sir Rd. Onslow, for his majesty's immediate service; and, as he deposed, neither directly, or indirectly for his own use, or that of any other member - -	1,000	0	0

Paid by the Cofferer of the Household,

To Tho. Bickerstaff, esq. for a Stipend of 30*l.* per ann. for 3½ years, ending at Michaelmas, 1693 - - - - - - - - -	105	0	0
To sir Stephen Fox, on a Pension of 120*l.* per ann. said to be purchased of Mr. Hamilton, in 1665, for a valuable consideration, for 2½ years - - - -	300	0	0

Grants of Money and Land by Privy Seal.

May 1689, a Grant and Demise, to pass the great seal, to Tho. Preston, esq. of the scite of the dissolved monastery, rectory, messuage, &c. in Furnis and other lands, in the county of Lancaster, whereof sir Thomas was seized, &c.

Mem. Mr. Preston is heir male of the said sir Thomas, who, on his refusing to change his religion, settled it to superstitious uses; and Mr. Preston was himself at the charge of vesting it in the crown; and the house of commons have formerly agreed to a Proviso, for confirming the said Grant.

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Dec. 1691. To John Dutton Colt, esq. 1254*l.* 1*s.* 9*d.* part of 2508*l.* 3*s.* 8*d.* (due upon composition from several persons at Bristol, for duties on Tobacco, and recovered on information) for his good services therein.

Dec. 1693. To S. Reynold, esq. and his heirs the Mannor, or reputed Mannor of Cowhorn, in the county of Hereford, with its Appurtenances, escheated to the Crown.

April 1693. To Richard, lord Colchester, a Grant of Walwood in the Forest of Waltham, with the Appurtenances, for 99 years, under the yearly rent of 6*s.* 8*d.*

April 1693. To H. Herbert, esq. 2181*l.* 4*s.* 6½*d.* and all other Monies, due from Denis Lloyde, esq. one of their majesties Receivers-General in Wales; likewise 324*l.* 8*s.* 4*d.* and all other sums due from John Nash, esq. another of the said Receivers, for the year ending at Michaelmas 1688.

Mem. Mr. Herbert informed the Commissioners, he received no benefit from the said Grant, by reason other persons had claims on the said Arrearages.

Dec. 1693. To Edw. Russel, esq. Admiral of the Fleet, in consideration of his many faithful services, especially destroying a considerable part of the French fleet, in 1692, a Grant of the Residue of 20,000*l.* to arise from the fall of hasle in the Forest of Dean, after such payments are made, as are already charged upon it.

Mem. It doth appear to the Commissioners, That above 10,000*l.* hath been already disposed of, out of the said 20,000*l.* viz. To sir J. Guise, 7,000*l.* as before-mentioned, 500*l.* to Daniel Osborne, esq. to repair the Town of Heydon, and 2,500*l.* for Secret Service, to Mr. Guy."

Lord Falkland voted to the Tower.] Feb. 16. Mr. Rainsford's Examination, and lord Falkland's Information, before the Commissioners of Accounts, being read, and lord Falkland having been heard, and withdrawn; a motion being made, and the question being put, "That lord Falkland, being a member of this house, by begging and receiving 2000*l.* from his majesty, contrary to the ordinary method of issuing and bestowing the king's Money, is guilty of a high Misdemeanor and Breach of Trust;" it passed in the affirmative, 143 to 126.—Resolved, "That lord Falkland be committed to the Tower of London, during the pleasure of this house; and that Mr. Speaker do issue his warrant accordingly."*

Bishop of Worcester's Speech in the Great Cause of the Earl of Bath.] Feb. 17. After hearing counsel several days, at the bar, upon the Petition and Appeal of Ralph earl of Montagu, Elizabeth dutchess of Albemarle his wife, Christ. Monk and Henry Monk esquires, by Mary Monk their mother, next friend, and guardian, from a decree of dismission made and pronounced in the Court of Chancery, the 22d of Dec. last, in several Causes there depending, wherein the Petitioners were plaintiffs, and John earl of Bath, sir Bevill Granville, knt. Bernard Granville, esq. sir Thomas Clarges, knt. sir Walter Clarges, bart. Tho. Clarges his son an infant, Arthur Farewell, Monk Rawlinson, esquires, Tho. Pride, esq. and others, Defendants; as also upon the several Answers of John, earl of Bath, Bernard Granville, esq. sir Bevill Granville, sir Tho. Clarges, knights, and sir Walter Clarges, bart. and Tho. Clarges his son, Arthur Farewell, esq. Monk Rawlinson, esq. by Roger Moore, esq. serjeant at law, his guardian, put in thereunto; and upon full and due consideration of what was offered by counsel on either side, and long debate thereupon: It was this day Ordered and Adjudged, by the lords spiritual and temporal in parliament assembled, That the said Petition and Appeal shall be, and is hereby, dismissed this house; and that the Decree of Dismission complained of in the said Petition and Appeal shall be, and it is hereby, affirmed.

In the course of the debate upon this important Cause,

The Bishop of *Worcester* (Dr. Stillingfleet) spoke as follows:—"My lords; I have been unwilling at any time to give your lordships any trouble by my speaking, and I should be much more so in a cause of so much difficulty and importance, if I do not think it my duty to say something at this time in order to bring this matter nearer to a resolution. Most of your time hath been taken up in things which come not up to the main point before us; which is, how far the authority of this house extends, as a court of equity, in a matter, which is determined at common law by a jury. But that I may proceed with all possible clearness, I shall consider, 1st. How the matter comes before us. 2dly, What way and method is to be taken for a resolution in it. 1st, This matter comes before us by way of appeal from the court of Chancery; where the question was, Whether there were any ground in equity to set aside a deed of settlement of the duke of Albemarle's estate on the earl of Bath; which deed was found by the verdict of an unexceptionable jury after a fair hearing of the cause. Against this deed a will is set up, made A. D. 1687, with great deliberation, and well attested; whereof the duke left three several copies, and owned it to be his will a little before his death, and is since approved by a sentence of the court of delegates, and by a decree in chancery, as to the personal estate. These are both voluntary settlements, and there was no obligation of nature, as in case of children; nor of justice, as in case of creditors, or purchasers; and therefore the point proves the harder, how far even the supreme court of equity can relieve against a deed found at common law. It is not questioned in the case, but if a point of equity be found in the case, it is relievable here. For equity, as it is understood here as to a court of equity, is some consideration which makes a thing reasonable to

* He was discharged, upon his Petition, on the 19th.

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be relieved, which cannot be relieved at common law. It is a groundless imagination in any to suppose, that a court of equity among us is founded upon or managed by the maxims of the canon or civil law. The true reason of it was, that when the courts of law in Westminster-Hall came to be settled, they were limited in their jurisdiction by their original constitution, which the judges by their oath were bound to adhere to. And it was necessary it should be so; for otherwise law would have been a very uncertain thing. But it was found, that there were many cases of fraud, accident, and trust, which grew more into use after the quarrels about the titles of York and Lancaster, and the Statute of Uses, 27 H. 8, which were fit to be relieved in the court of chancery, even after judgment at law, notwithstanding the statute of 4 H. 4. c. 23. And this continued and necessary practice made this a part of the law of the land. From hence, all causes that had reason to be relieved, and yet had no relief at common law, came to be accounted causes of equity; and from the inferior court of chancery, appeals have lain to this supreme court both of law and equity, as it is by the constitution of our government; and it was both, before the courts were settled in Westminster-hall. I do not say that there were always the same methods of appeals and writs of error, (as they are now) for both are modern in comparison: The ancient way was by petition in both cases, as all know, who are conversant in parliament-rolls. This cause comes now by appeal from a decree in chancery; and the point is, what matter of equity there is to be relieved in chancery after a verdict at law. We cannot here arraign the verdict of law, which hath passed upon the oaths and consciences of those who are proper judges of the fact; and, therefore, the truth of the deed, as to the signing, sealing, and delivering of it, must be supposed by us; and consequently all the objections which have been made against the truth of the deed, are not to be considered by us; nor any imaginations of a possible resulting trust, if the deed had some passages in it, which are not, as the deed was found by the jury. Here then lies the main difficulty: After this deed of 1681, the duke makes a will with great deliberation, and signs and seals it in the presence of three credible witnesses. In this will he disposes his estate quite otherwise than he had done by the deed: and the question is, Whether he, remaining owner of the estate, and having a disposed mind, doth not really and truly by his will revoke the former settlement; and if so, and some circumstances be omitted in the manner of revocation, whether a court of equity may not supply the defect of these circumstances? This I take to be the true state of the present case, and that I may find a way to the clear resolution of it, we are to consider, 1st, That if the different disposals of the estate had been in the same way, the latter had been an unquestionable revocation of the former, if the person had equally a disposing mind. 2dly, That if the deed had been made in subserviency to his last will, it could have had no force against the will. 3dly, That if the deed had been an absolute conveyance without any power of revocation, the will could not have voided it; for otherwise the force of deeds will be made void, and the law of settlements overthrown. 4thly. That if the power of revocation had been absolute, i. e. without any restrictions or limitations of the exercise of it, I am apt to think the will must have taken place, because it was a real revocation, although not express. 5thly, But here lies the turning point; the power of revocation is limited by him that hath the disposing power; and he declares by it, that he will not change his settlement, but under such circumstances: these circumstances are not observed: the question now before your lordships is, whether, as a court of Equity, you can relieve the defect of circumstances in this case? There are three things insisted upon to prove it. 1st, The unreasonableness of such a limited power of revocation. 2dly, The equity and fitness of the case. 3dly, The precedents of relief in like cases. 1st, The unreasonableness of such a limited power; which hath not only been called by some noble lords, an unusual and extraordinary power, but a thing inconsistent with the liberty of mankind, who ought to enjoy the freedom of disposing their own estates. No doubt, according to reason without laws, every man who hath the entire property of an estate, hath the power of disposing his estate as he pleaseth; and this power he retains, as long as he is under no restrictive laws, and enjoys the free exercise of his reason. But when laws intervene, they may so limit and restrain the disposing power, that a man cannot give away his own estate, but in such a manner as the law allows him. Otherwise, after a deed without power of revocation, he might dispose of his estate as he pleased, as well as before. What need any man reserve this power, if it cannot be taken from him? The question is, whether there be the same reason as to circumstances of the power, as there is to the power itself? The resolution of this depends upon the point, whether there may be sufficient reason for a man's power to be so limited, as to make it void if those circumstances be not observed? If it be reasonable for men by their own consent to debar themselves from their own freedom, to prevent a trouble, which they fear more than the loss of that liberty; then such a restraint cannot be thought unreasonable. Men may be so apprehensive of restless importunities of such, whom they have no mind to quarrel with, or of their own weakness and liableness to surprize, that they may, in a free and deliberate manner, bar themselves of the liberty of disposing of their own estates, but under such limitations which are unnecessary, and barely circumstantial. And it is agreed by the most impartial and judicious interpreters of the laws of nature and equity, that if a man makes a will,

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and therein declares, that no future will shall stand good, unless the former be revoked, he doth bind himself so far, that a latter will, although never so freely made, shall not obtain unless there be an express revocation of the former. And this generally obtains in the courts of law and equity abroad, as we are very well informed; and they look upon such limitations, but as a kind of protestation before hand against the freedom of his consent to any such act, wherein these circumstances are not observed. And we are told by those who best understand our law, that there is no rule more clear in our law-books than this, that all the circumstances of a power of revocation must be observed to make it good and effectual; as it is plainly delivered in Scroop's case, and Kibbet and Lee's case. It is certain, that the law may make some things so necessary, which in themselves are not so; that without them the act is void; as livery of seisin, as to the possession of lands and tenements in freeholds Can any one imagine, that the circumstance of taking a clod of earth in an open field, upon a twig or bough, should be necessary to convey the inheritance of it; or the holding the ring of a door, as to a house, &c. or of a rod, for a copyhold estate? What frivolous things in themselves are these? and yet when the law hath made them necessary, they must be observed. What seems more repugnant to natural reason and equity, than the way of fines and recoveries? For therein by mere fiction of law, without hearing the parties concerned, or giving any reason, the next heir at law is barred from the remainder of the estate; and yet there is no relief in equity in this case: but the greatest part of estates at this day are under such settlements. So that it is very dangerous to break in upon laws, because the things which the laws require seem to be trivial and circumstantial. 2dly, But is the law of England so unreasonably severe in these minute circumstances, as to render a solemn and deliberate act void for want of them, and so as to have no relief in equity? No, I think the courts of equity are to allow relief in such cases where it is reasonable to allow it: that is, in these following: 1st, In matters of fraud and circumvention there is relief in equity, although there have been judgment at common law. As in the case of Courtney and Glanville; wherein there was a notorious fraud discovered after a judgment at law, Cr. Jac. 344; wherein the Chancery was certainly in the right in giving relief; because a jewel not worth above 20*l.* was sold at 360*l.* But the fraud must be plain, and evidently proved, not depending on conjectures and suspicions; and it must be such proof as did not be before the jury which gave the verdict. And if there were ground to believe the jury mistaken, there ought to have been a new trial: but since there hath been no motion that way, we are to look upon the verdict as good; and that such evidence ought not to sway with us now, which, if it had been true, must have altered their verdict. As long as their verdict stands, we must go according to their judgment in the matter of fact. But the great thing insisted upon was, that the deed was obtained by way of surprize upon the duke; and of this the jury could not judge, but a court of equity ought. Surprize is a sort of fraud upon a man's understanding, and is contrary to that trust and confidence which one man reposes in another: but he that is surprized, as soon as he can, endeavours to prevent the effects of it. Here was a power of revocation left, which would never have been in a deed by surprize. Was it not in the duke's power in all the time, from the sealing the deed to his going to Jamaica *, to have set the matter right, and to have made the earl of Bath sensible of what he had gotten by surprizing him into such a deed? Is there any thing persons of honour are more sensible of, than being surprized into settlements against their minds? The duke had it still in his power to have revoked his deed in the manner prescribed for several years; and since he did nothing of that kind, it is a great argument to me, that there was no surprize. 2dly, There is ground for relief in Chancery upon not observing all the circumstances in a power of revocation, if any accident hinders the keeping close to them. If there were no allowance for accidents, our law would be very unreasonable. I do not say that at common law there is to be an allowance for them; but that very thing makes a court of equity necessary. I can hardly think with patience of the great cause of Throckmorton and sir Moyle Finch, because it seems a reproach to the nation. The case, in short, was this: Throckmorton had a lease from the crown, with a condition, that if the rent were not paid in such a time, the lease should be void. Sir Moyle Finch purchases the reversion of the lease, and enters for non-payment of the rent; and upon hearing, obtained a judgment at law, which was affirmed in writ of error. Throckmorton exhibited a bill in Chancery; setting forth, that he sent his servant with the rent, at the time, but he was robbed; and as soon as he knew it, he paid it the day after, and the queen accepted it. Yet this is the precedent, which my lord Coke several times insists upon against relief in equity; which, in my opinion, turns the other way, and shews the necessity of a court of equity in a nation that would do equal justice to mankind; which doth not depend on mere forms of law, but on the equity and just reason of things. Now, if in the present case the duke had sufficiently expressed his intention to revoke the deed; but some accident, which he could not foresee or prevent, had hindered him from all the particular circumstances, I should have thought there had been sufficient ground in equity for relief; but nothing of that nature is pretended. 3dly. If the intention of the party to revoke be clearly and undeniably proved. For as in wills the great thing to be

* Of which place he was Governor.

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looked at is *Animus Testandi;* so in revocations, that there be *Animus Revocandi;* especially if there be an opinion, that a deed cannot be revoked by a will, and there be reason to believe that he might have that opinion. I do not insist upon it, that there is full proof that the duke sent the earl of Bath to Courtney to know if a will would void the deed, and that he said it would not. But this is in the earl's answer; and Courtney deposes, that the earl told him so. The use I make of it is, that there ought to be the stronger proof of the duke's intention to revoke the deed. And we are now to consider, what frequent opportunities the duke had of declaring his mind to this purpose, and that he never did it. 1st, When he spake first to sir R. Clayton about making his will, he never said any thing to him about the deed; and when by his advice he sent sir H. Pollexfen to advise about his will, he said not a word to him about this deed. Then was the time to have shewed his resentment of the surprize, if it had been such, and to have taken order for an effectual revocation of the deed. When I consider the manner of his making the will in 1687, the deliberation and advice he took about it, the time that passed before the sealing it, I must think one of these two things; either that the duke never heard or knew of any such deed at all, or had forgotten it as much as if it had never been, (and, if so, I must believe several of the witnesses forsworn, which swear to his intention of leaving his estate to the earl of Bath, as Mr. Prideaux and others, which swear to particulars only contained in the deed) or else, that the duke had a purpose for some ends to make the will, which do not lie before us to judge of; but he had no purpose to revoke the deed, but to leave both the will and deed, and let the law determine it when he was out of the hearing of the clamours that would be made about it. 2dly, When the duke lay sick at Jamaica, and upon the opening the strong box, his will was discovered: That, saith he, is my will. Was ever a fitter opportunity than at this time to have declared his intention of revoking this deed in the presence of so many witnesses, and this to have been his last and solemn act of revocation of all deeds and wills whatsoever? What was the reason this was not then done? There was no earl of Bath, or his agents, then near him; he was at full liberty to have declared his mind clearly in this matter; and if he had done it then, he would have given me satisfaction that he intended to have revoked the deed, and then I should not have stuck at the want of three peers, or other minuter circumstances. But as things are in proof before us, it doth not appear to me that he had any intention of revoking the deed, as is necessary for the setting it aside after a verdict at law for it. For the verdict gives the earl of Bath a legal title to the estate, and therefore the evidence of the revocation must be such as must give us ground to overthrow the force and effect of such a verdict. But suppose the duke remembered the deed, and had forgotten the limited powers of revocation; it may be, he remembered the general power of revocation, and forgot the limitations of it; is there no relief in that case? This is the hardest point of all in this case: and it seems very reasonable to relieve against the defect of memory in such cases, wherein persons are to part with their estates, which they are not willing to think of. It is very reasonable to suppose the case; whether it be so reasonable to relieve in it, is the question. Suppose a man forgot to take livery of seisin as to freehold estates, or to surrender in copyhold estates, or to transfer from the right heir without fine or recovery, will the law relieve him? No: But equity may. Not in cases determined at law, and which estates are to be settled by; which every man at his own peril is bound to remember, or to advise with those who would put him in mind of it. But here is not any evidence of forgetfulness. If the duke had told sir H. P. or sir R. Cl. that he had some obscure remembrance of a deed, and a power of revocation, they would have had the deed produced, and the powers examined, and the revocation executed according to them: But since there appears nothing of all this, we are not to presume it, and to judge by the things which do not appear. 3dly, As to the precedents on both sides yesterday opened and argued, I found not one come up to the present case; but I found several good rules of equity, which are observed in the judicial proceedings of the court of equity. As 1st, To make a favourable construction of the words and designs of a will. So in Pitt's and Pelham's case, where the will was void at law for want of a clause to appoint the heir to sell the estate. 2dly, To supply some defects where the intention of the party was clear and without dispute, as in the case of Smith, Ashton, Thwaits and Deye, where seals were wanting to their wills; but there was manifest proof of the intention of the persons; and so the want of seisin in the case of lady Cranburn and Delmahoy. 3dly, To accept an equivalent where the bare letter of the settlement was not pursued, as in Popham and Bamfield's case. 4thly, To set aside settlements procured by fraud and circumvention, as in the case of sir Henry Hele and Ring, where there was manifest fraud in the inequality of estates, and the different assurances given. 5thly, To relieve in case of any accident hindering the performance, as in the case of Ward and Lee; where it was declared in the decree, that if there was a manifest intention to revoke, but a disability happened, there was ground for relief in equity; but since in that case there was only a cancelling the deed in a passion, and his intention it should continue was plain, therefore the court decreed it to continue a good deed in equity. But in this case there is no proof of fraud, accident, or manifest intention to revoke the deed: but here are two voluntary settlements, and one of them confirmed by a verdict at law; and therefore unless some clear and undeniable point of equity do appear,

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which hath not yet to my understanding, I must be against setting aside the verdict at law; and therefore humbly move that the decree may be affirmed.'

The King's Speech to both Houses pressing for Dispatch, &c.] March 23. His majesty, after passing several Bills, made the following Speech to both houses:

"My Lords and Gentlemen; When I consider how far the year is advanced, what Preparations our enemies make to be early in the field, and how necessary it is that we should be ready to meet them, both by sea and land, I must earnestly recommend to you the dispatch of those important affairs, which you have under your deliberation.—I am very sensible of the good affection which you have shewn in this, as well as former sessions, by enabling me to carry on the War we are engaged in, for our common safety. There is nothing I have so much at my heart as the ease and happiness of my people; and it is with great reluctance that I am forced to ask such large Supplies: but since our present circumstances make this unavoidable, it shall be my endeavour, that the sums which are given shall be laid out, in the best manner, to the uses for which they are designed.—Gentlemen of the House of Commons; I take this occasion to mention to you the Debt for the Transport-ships, which were used in the reducing of Ireland. It grieves me exceedingly to see such a number of persons, who came so freely in, for so good a service, brought to the last extremities, for want of what is due to them. It is not possible for me to discharge this debt without your help: and as I doubt not but you have a just commiseration of their case, so I hope you will find out some way for their relief."

Order concerning Protections.] March 24. Several lords who had entered Protections being heard, some of them were struck out, and the following Order made, viz. "It is ordered and resolved, upon the question, by the lords spiritual and temporal in parliament assembled, that no lord shall enter any written Protection in the Book of Protections, until after he shall have personally atended this house, in the same session of parliament."

Protest thereon.] "That the taking off any part of the undoubted Privileges, which every peer of England enjoys by his birthright, by a Vote in a pretty thin house, especially when a peer of this house moved on the behalf of the absent lords, that a day might be appointed for the debate of the matter, in which they were so much concerned, seems in the manner of it to make too light of what this house ought to esteem so sacred as the privileges of the Peerage of England.

(Signed) NORFOLK and Marshal.'

Sir John Knight's Speech, against the Bill for naturalizing Protestant Foreigners.] During this session, a Bill was brought in 'For naturalizing all Protestant Foreigners;' which was violently opposed, especially by sir John Knight, the younger, member for Bristol*, who spoke against it as follows:

* Somers' Tracts, 1 col. vol. iv. p. 272. The Speech was printed and published with this short Introduction: "The following Speech being spoken off hand upon the Debates in the House of Commons, you cannot expect in it the exactness of Roman eloquence; but you have the freedom and bravery of the old Roman and true English spirit, zealous for the good of their country, and bold in all its dangers. And if other Corporations and Shires would take the like care as B——l, they might be as happy in the choice of their Representatives; and then, and never till then, may we hope to see *poor* England become *Old* England again, rich and happy at home, glorious and renowned abroad. Towards which, this worthy patriot has set a noble example; and that it may inspire and encourage others, and prompt and enable the country to distinguish such from *Pensioners* and not wretched betrayers of their country and posterity, in the design of making this public, from a Copy which I procured from a Member of the House of Commons, who took it in short hand, as it was spoke."

Ralph says, that "as no Speech was ever, perhaps, better calculated to enflame the mob than this, the Tory-malcontents not only took care to have it printed, and dispersed throughout the kingdom, but had the pleasure to see the train take effect, even beyond their expectation: a notion immediately and universally obtained among the vulgar, that if the Bill took place, all Offices would be conferred on Dutchmen: that from thence-forward they would become what the Lord-Danes were formerly, and prescribe what mode of religion and government they pleased, &c. And as to sir John Knight, he was discoursed of as a Saviour, and in a manner adored, for having made so noble a stand in behalf of his country. This exceedingly piqued the contrary party, more especially the courtiers; who, with their usual officiousness, did not fail to do the drudgery of the Jacobites, by applying what had been said of Pharaoh and Joseph, to the king and the earl of Portland; and to make a merit of their endeavours of setting a mark on the offender: for the Print being complained of in the house, and the heinousness of it sufficiently aggravated, sir John was called upon, with such a tempest of rage and clamour, as very clearly shewed, that either he or it were to be sacrificed: and not being altogether so devoted to his party, as to suffer expulsion and imprisonment in the Tower, which he had been menaced with, for their sakes, he chose to disown the Speech; which was thereupon ordered to be burnt by the hands of the Common Hangman, and it was burnt accordingly. But so little credit had the house with the people at this crisis, that this censure of their's had all the effect of a recommendation: the Speech whether genuine or not, was more regarded, and the cry against the Bill became louder than

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"Mr. Speaker; I have heard of a ship in a violent storm, in danger of perishing every moment; (it was not such a sham storm as we were lately entertained with in the Gazette, which deceives the people, by affirming that many ships going for France, laden with corn, were cast away; though those ships, and many more are since safely arrived in France); but it was such a real storm, as on the 7th of the last month destroyed on the coast of Cornwall, upwards of 70 sail of our English ships, most of which were laden with corn, and several sorts of provisions, for the use of our Dutch allies, to enable them to live cheap, by making the same dear at home; perhaps some was for the support of our half-starved and unpaid English soldiers now in Flanders; when perished likewise more than 700 sailors, who have left a great many widows, children, and poor relations, to curse our conduct at sea, the cause of this calamity. In such a dreadful storm it was (that the foresaid ship was in) when the good commander seeing the danger, and apprehending death, desired his crew to assist with resolution, and preserve themselves and the ship, which the sailors refusing to do, he retired to his cabin, humbled himself in prayer, and implored the powers that alone can save in time of need; that though the ship and the company might be justly swallowed up, for the disobedience of the sailors, yet that he, and his cabin might suffer no damage.—Sir, I cannot, as that good commander did, be so vain as to hope, that either myself, or the place for which I serve, can be preserved from the general inundation, which this Bill we are now debating lets in, on the liberties of my native country and country-men; and therefore be unconcerned for the good of England, provided Bristol were safe: To hope for and expect happiness in life, when all mankind but myself are dead, would not be more deceiving, than to propose comfort and security to myself and corporation, when strangers are admitted to possess and enjoy, by a law, all that's valuable in the kingdom; for this Bill doth enfranchise all strangers that will swear and protest against popery, with the liberties of every Englishman, after the vast expence of treasure and English blood, it hath cost this kingdom in all times and ages of our forefathers, to secure them to themselves, and their posterity.—Wherefore, Mr. Speaker, I must beg pardon, if at this time I cannot sit silent, but express a zealous concern, as well for the kingdom in general, as for the place I represent in particular; and I am more moved thereunto, whilst I see so many members sent here by their country, for the conservation of the Englishmens liberties, so warm as to part with all to strangers with one vote.—The argument of the honourable person near me, to render all the care of our forefathers of no esteem amongst us, who are, or ought to be the representatives of the kingdom, was to prove, that this age and generation are wiser, he did not say honester, than the former.—I remember a west-countryman, many years past, undertook to prove the same to me, and my company beyond sea, by declaring his father was a fool to him: I yielded him that point, by concluding both to be such, and yet our forefathers might be wise men; I shall not at this time question the wisdom of those who promote the Bill, or their fathers. For myself, I declare in behalf of the wisdom and honesty of our predecessors; nor can I assent to the yielding up of the liberties and laws they derived unto us, only because some gentlemen think better of themselves, and perhaps mistakenly, than of their parents.—Sir, I was early instructed in a principle of deference to the wisdom of our ancestors; and, at this time, I tremble, when I reflect on the correction given me by my master, that I might not forget, but imitate and defend in all times this rule: Let them only be accounted good, just, and wise men, who regard and defend the statutes, laws, ordinances and liberties, which their forefathers wisdom and experience obtained for themselves and posterity. Now it is my opinion, Mr. Speaker, that if those gentlemen who approve of this Bill, had not only been taught that rule, but as well corrected as myself, they would be of my judgment; and I wish that they who depart from that rule, and sacrifice our English liberties, to a number of mercenary foreigners, may not meet with a much more rigorous and exemplary chastisement, from their enraged and ruined countrymen.—The arguments used for the Bill, are in substance these: 1st, A want of Purchasers for our Lands, 2. Of Merchants. 3. Manufacturers, who can work cheaper than the English. 4. Husbandmen to till the ground. —To all these I shall return short answers; but if I debate not on them with that advantage and reason as our land-admirals can, no doubt, with great ingenuity on sea-politics, I hope the house will pardon me; for my observations never cost the kingdom such expence of money at home, and losses at sea, as hath the experience of those honourable persons in sea-affairs.—First, It is argued by some that we want Purchasers for the Lands; this is a melancholy consideration: I therefore desire those gentlemen who approve of this Bill, to tell me what it is hath brought us to this condition, that the landed men of England are reduced to so low an ebb, that they must sell, and none are left able to buy, unless Foreigners are naturalized? Doth this prove our forefathers wanted understanding? Or, doth it not rather conclude it is occasioned by our want of it, and by our not following their examples, who never taxed their country to the ruin both of themselves and their posterity? Nor did they expend the money of the king-

ever: in vain the scribes of the Court-party were employed to justify the one, and explode the other: the torrent continued to rage as violently as before; and, for the present, it was thought advisable to suffer the Bill to be carried away by it."

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dom on such allies as ours: who, as we have been informed by some of the privy council, are not in our interest, and will spare us none of their men for our pay, without great pensions likewise for themselves. Can any man hope to persuade me that our forefathers would have brought foreign soldiers into England, and pay them, and naturalize them likewise, and at the same time send the English soldiers abroad, to fight in a strange land without their pay?—Let us abate our taxes, and after the wise precedent of our fathers, pay our own seamen and soldiers at home, and send the foreigners back. Then the money will be found circulating at home, in such Englishmen's hands, who may buy the lands that are to be sold, without naturalizing strangers.—Secondly, It is said we want more Merchants: Whom may we thank for bringing so many to poverty? But I shall forbear grating, and desire the liberty to consider in short how the Trade of England hath hitherto been carried on. Gentlemen have placed their younger children to merchants; their masters observing their honesty and diligence, when they have gained some experience in the necessary parts of trade, generally send them abroad to Turkey, all parts of the Levant, to Spain, Portugal, the East and West Indies; and all parts where England holds any considerable commerce; there the young men are employed by, and entrusted with the stocks and estates of their masters and friends, whereby all parties, both the principals at home, and the factors abroad, are advantaged, and England enriched, (for there in the end all centers:) and, at last, when they are satiated with gain, they return to their native soil, their friends and relations, for ease and enjoyment, making room for a younger generation to succeed in their profitable employments. Thus hitherto this kingdom hath advanced in riches, whilst Forcigners could not with success plant their factories on us, through the advantage we had by our laws; let us but turn the tables, and consider the consequence: Suppose we pass this Bill, and the Dutch (who no doubt will take the oaths as this Bill directs, and protest against popery and paganism, and, on occasion, Christianity too, as at Japan) send their servants and factors hither, and we naturalize them, and let the capital stock, which gets an employ to these new-made Englishmen, belong to their masters and friends, who never did, or ever will live amongst us; will it not then follow, that the profit will be their's and not England's, and will not the new-made English (yet Dutchmen still) return to their country and friends with their gain, as our people hitherto have done? We may observe by our inland trade, that it is seldom they who make the manufactories, gain estates, but those who employ their stocks in buying and selling what others make; and it is the same with the merchants, those that export and import are the gainers; the first maker very seldom, the consumer never. The conclusion then of this experiment must be this: That what hath hitherto been gain to England by English merchants and factors, will be turned to a foreign land, by the foreign merchants being naturalized for their own not England's.—But this is not all, for at once the art of Navigation will be rendered useless. Whence then will be a nursery for seamen? For foreign merchants will naturalize foreign seamen; and when the press-masters find them, they will *Dutchen spraken ya min Heer*, and avoid the service; but at the Custom-house, Exchange, and in all corporations, they will be found as good Englishmen as any of this house. From whence it followeth, that Trade will be only carried on by foreign merchants and seamen, and the English seamen condemned to our men of war, and perhaps live there, as hitherto, without their pay, till another million be owing them for Wages; and in the interim have this only consolation and reward for service done, and to be done, that their wives and children may be subsisted with the alms of the parish, whilst foreign soldiers are maintained at home and abroad with their pay.—A third argument for admitting Foreigners, is upon a supposed want we have of manufacturers, especially such as will work cheaper than the English: in my opinion this reasoning is extraordinary, and ought not to take air out of the house, lest the old English spirit should exert itself in defence of its liberties; for at this time, when all provisions are become excessive dear by the great quantities exported to Holland, which puts the poor English manufacturers on starving in most parts of England, for want of a full employ to enable them to support their families, by their honest and painful labour and industry, shall an English parliament let in strangers to under-sell our country, which they may easily do, whilst they live in garrets, pay no taxes, and are bound to no duty? How shall we answer this to our country who sent us here? When, by so doing, instead of making the kingdom more populous, we provide only for the subsistence of Foreigners, and put our countrymen to the choice of starving at home, or to turn soldiers, and be sent to Flanders, and starve there for want of their pay? For it is well known, that, at this time, more commodities are made in England than can be consumed, abroad, or at home, which makes the poor manufacturers so miserable. All country gentlemen within this house have for several sessions laboured, what they could, to raise the price of the provisions which their lands produce, and some think it not great enough yet, and they would despise that man, who should endeavour to lower the rates, by proposing a free Importation of Irish cattle and corn,* though he had no other design, than

* The same thing is also touched upon in the following passage, in the Tract already quoted:

"We have scarcely had one Gazette these three months, in which the scarcity of bread, and apprehension of a famine in France, hath not been aggravated; while it is certainly known, that at Paris it is cheaper than at Lon-

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that charitable and necessary one of relieving the poor; and yet these very gentlemen are for this Bill, because they would have the labour of the poor brought to a lower advantage: in my opinion this is a very unequal way of reasoning, that whilst we raise the price of the product of the land, for the gentlemen to live in greater state, at the same time our consults are how to make the half starved manufacturers, that live by their daily labour, more and more miserable. What opinion will the common people of England have of this house, and the gentlemen of the kingdom, whom nothing can please, but what is made by Foreigners, or comes from abroad?—Our palates for a long time have been so nice, that nothing but a French cook could please them; nor could we persuade ourselves that our cloathing was good, unless from head to foot we were *à-la-mode de France.* The gentleman was not well served without a Frenchman, and the lady's commode could not sit right, if her fine French woman did not put it on: now, on a sudden, the change is as violent in favour of the Dutch, who are great courtiers, and the only taking people, and our English are a sort of clumsy-fisted people, if compared with the modish Dutch Hans and Frow, and in short the Englishmen are fit for nothing but to be sent to Flanders, and there either to fight, steal, or starve for want of pay. There is one thing, Mr. Speaker, which comes into my mind, with which I shall close this consideration: what reason was there for blaming the mayors, aldermen, common councils, and other governors of corporations, for surrendering their Charters, though they still retained their rights, for Englishmen only to come into new charters, and at the same time hope to justify our proceedings, though we throw up the Great Charter of our English liberties, to admit strangers?—A fourth pretence for this Bill is, A want of Husbandmen to till the ground. I shall say little on this head, but request the honourable person below me, to tell me, of the 40,000 French, which he confesseth are come into England; how many does he know, that, at this time, follow the plow-tail? For it is my firm opinion, that not only the French, but any other nation this bill shall let in upon us, will never transplant themselves for the benefit of going to plow; they will contentedly leave the English the sole monopoly of that slavery.—Upon the whole, sir, it is my judgment, that should this Bill pass, it will bring as great afflictions on this nation, as ever fell upon the Egyptians, and one of their plagues we have at this time very severe upon us; I mean, that of their land bringing forth Frogs in abundance, even in the chambers of their kings: for there is no entering the courts of St. James's and Whitehall, the palaces of our hereditary kings, for the great noise and croaking of the Frog-landers.—Mr. Speaker, this nation is a religious, just, and zealous nation, who, in some of their fits of zeal, have not only quarrelled and fought for the same, but have murdered and deposed kings, nobles, and priests, for the sake of their religion and liberties, which they pretended to prove from the Bible. We are the religious representatives of this religious people. Let us therefore learn instruction in this case before us, from that good book; where we may be informed, that St. Paul by being born free of Heathen Rome, escaped a whipping, and valued and pleaded that privilege; and the chief captain of the Romans prides himself, that he, with a great sum, had obtained that freedom, and feared greatly when he had violated St. Paul's liberty, by binding of him; and shall we set at nought the freedoms of the English nation, who are a religious, Christian kingdom, and part with the same to strangers, for nothing, unless the undoing of our own country-men, who sent us here, but not on this errand? Certainly we should follow the example of the Roman captain, and fear and tremble when we consider the just provocation we shall give to the kingdom, who will expect that we preserve, and not destroy every Englishman's birth-right.—

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don; and yet we find no such provident care as the French king takes, to have it sold at cheaper rates, by encouraging Importations from Ireland, where wheat is now sold for two shillings a bushel, which here is ten or twelve shillings. And when Swedes, Danes, and Hamburghers bring corn, in hopes of a good market, we publish them seized as prize, being designed for France. They tell us a wild story, of the troops drawn from Piedmont into Dauphine, to prevent the insurrections of the people for want of bread; as if the quartering of such numerous troops were like to increase that grain; or that the French king should bring his troops into barren provinces, which were the ready way to make them join in the insurrection. But we never touch upon the actual Insurrections at Worcester, Gloucester, Hereford, Stafford, Salop, Northampton, Sudbury, and Colchester, and other places, to prevent the buying up their corn, to be transported to France, as some maliciously gave out, when it was well kown it was for Holland. But the charity of the new bishop (Dr. Patrick) of Ely's wife is remarkable: who, when a lady was condoling the condition of the poor here, by reason of the dearness of bread, and all eatables, replied, 'But God be thanked there is a greater Scarcity in France.' It were an easy matter to draw up a book of the excessive Rates of all things for the belly and back, which are now paid in proportion to what they were before the Abdication: because they are daily experienced by every house keeper, to the necessary pinching of themselves and their families. That loaf of wheat bread, which was then sold for threepence farthing, is now ninepence-farthing; and so proportionable, or at least double in other food. That silk which was sold then by retail at 13*s.* the pound, now at 30*s.* The muslins, and all East India commodities, three times the price." Price of Abdication, p. 9.

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Sir, We may further learn, from that Book, the fate of the Egyptians, who experimented, on the score of charity, what it is a people may expect from admitting Strangers into their country and councils; Joseph was a stranger, sold a slave into Egypt; yet being taken into Pharaoh's council, he, by taxes, and other fine projects, brought the seven years plenty God had blest the Egyptians with, into the granaries of Pharaoh: but when dearth came on the land, and the people cried to their king for relief, they were sent to the stranger Joseph, who getteth from them, for that which was once their own, all their money, their cattle, their lands, and last of all, their persons into slavery; though at the same time, he did far otherwise by his own country-men, for he placed them in the best of the land, the land of Goshen, and nourished them from the king's store. This example should teach us to be wise in time, seeing all this was done by the advice of one Foreigner in the privy-council; and what may that country expect, where the head, and many of the Council are foreigners?—Sir, I perceive some gentlemen are uneasy, perhaps I have offended them, in supposing they are religious representatives; or concluding that their religion is to be proved from the Bible; if that be it which displeaseth, I beg their pardon, and promise not to offend again on that score; and will conclude all with this motion, That the serjeant be commanded to open the doors, and let us first kick this Bill out of the house, and then Foreigners out of the kingdom.'

Sir J. Knight's Speech ordered to be burnt by the Common Hangman.] On the 1st of March a Complaint being made to the house of a printed Libel, that hath been dispersed as a Speech spoke in this House; whereof one was produced, and delivered in at the Table, and read; intituled, "The following Speech being spoke off-hand, upon the debates in the house of commons, &c." Resolved, "That the said printed Libel, pretended to be spoken in this house, containing many false, scandalous, and seditious expressions and reflections, be burnt by the hand of the common hangman upon Saturday morning next, in the Palace-Yard, Westminster: and that the serjeant at arms attending this house do see the same performed."

The King's Speech at the Close of the Session.] April 25. The king came to the house of peers, and made the following Speech to both houses:

"My lords and gentlemen;—The proofs you have given of your affection to me, and the zeal you have expressed for the support of the government, oblige me to return you thanks before I put an end to this session; and in particular to thank you, gentlemen of the house of commons, for the large Supplies you have provided to carry on the War. I will endeavour to do my part; and it is from the blessing of God that we must all expect such success as may answer our desires.—My lords and gentlemen;—The posture of affairs making it necessary for me to be absent for some time out of this kingdom; I recommend it to you, that, in your several stations, you be careful to preserve the public peace."

Then the Lord Keeper, by his majesty's command, prorogued the Parliament to the 18th of September following.

Preferments.] The same day the Parliament was prorogued, the king bestowed the title of Duke on the earl of Shrewsbury; and created the earl of Mulgrave, marquis of Normanby, with the grant of a pension of 3000*l.* a year. He was also with the lord Dursley sworn, on the 3rd of May, of the Privy Council. About the same time Henry Herbert was made baron Herbert of Cherbury in the county of Salop; Edward Russel, sir George Rooke, and sir John Houblon, were appointed three of the Commissioners of the Admiralty. On the 30th of April, the marquis of Caermarthen was created duke of Leeds; William earl of Bedford, marquis of Tavistock, and duke of Bedford; William earl of Devonshire, marquis of Huntingdon and duke of Devonshire; John earl of Clare, marquis of Clare and duke of Newcastle; Francis lord Newport, Treasurer of their majesties Houshold, earl of Bradford in the county of Salop; and lord viscount Sidney, lord warden of the Cinque Ports, earl of Romney in the county of Kent. On the 2nd of May, Sidney lord Godolphin, sir Stephen Fox, Charles Montague, sir William Trumball, and John Smith, were appointed Commissioners of the Treasury. Mr. Montague, a branch of the earl of Manchester's family, had begun, though a young man, to make a great figure in the House of Commons. He was not only made Commissioner of the Treasury, but soon after Chancellor and Under Treasurer of the Exchequer. He had great vivacity and clearness, both of thought and expression: his spirit was at first turned to wit and poetry, which he continued still to encourage in others, when he applied himself to more important business. He came to have great notions, with relation to all the concerns of the Treasury, and of the public funds, and brought those matters into new and better methods: he shewed the error of giving Money upon remote funds, at a vast discount, and with great premiums to raise loans upon them; which occasioned a great outcry, at the sums that were given, at the same time that they were much shrunk, before they produced the money, that was expected from them. So he pressed the king to insist on this as a maxim, to have all the money for the service of a year, to be raised within that year.*

Proceedings during the Recess.] The king sailed for Holland in the beginning of May. The confederate Fleet was early at sea, but did not perform any important service. The French fleet industriously avoided coming to an engagement. An attempt to destroy the harbour of Brest, conducted by lord Berkley and general Talmash, proved unsuccessful, from the intelligence of that design having been conveyed

* Tindal.

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to James by the earl of Marlborough. The bombardment of Dieppe and Havre de Grace spread great alarm over the adjacent coast of France; but redounded little to the honour, or advantage of the English nation. The only naval success was the destruction of a large fleet of merchantmen in Bertram bay, by captain Pritchard of the Monmouth, attended by fire-ships. No important action happened in Flanders. The French army under the Dauphin, by expeditious marches, obtained possession of some advantageous posts on the Scheld; and prevented the allies from accomplishing their design of penetrating into French Flanders.—A detachment from the allied army, commanded by the prince Tserclaes de Tilly, took the town and castle of Huy; and drove the French out of the bishopric of Liege.—In Catalonia, the marshal de Noailles, with a superior army, forced the Spaniards to retreat; stormed and plundered the town of Palamos, besieged and took Gironne, Ostelric, Castlefolet; and intended to have finished his career of victory with the siege of Barcelona; but was prevented by the arrival of the English fleet, commanded by admiral Russel. In Piedmont, secret negociations, carried on between the French and the duke of Savoy, rendered both armies inactive. On the Rhine, prince Lewis of Baden failed in repeated attempts to bring the French army, commanded by the marquis de Lorges, to an engagement. He was successful in getting possession of Wiselock; and, after destroying some of the French magazines, repassed the Rhine. On the 9th of Nov. the king arrived from Holland.*

SIXTH SESSION OF THE SECOND PARLIAMENT OF KING WILLIAM III.

The King's Speech on Opening the Session.] November 12. The Parliament met at Westminster, and, with the usual solemnity, the King opened the Session with the following Speech to both houses:

"My Lords and Gentlemen; I am glad to meet you here, when, I can say, our Affairs are in a better posture, both by sea and land, than when we parted last. The Enemy has not been in a condition to oppose our Fleet in these seas; and our sending so great a force into the Mediterranean has disappointed their designs, and leaves us a prospect of further success.—With respect to the War by land, I think, I may say, that this year a stop has been put to the progress of the French arms.—Gentlemen of the House of Commons, I have had so much experience of your good affection to me, and of your zeal for the public, that I cannot doubt of your assistance at this time. I do therefore earnestly recommend to you to provide such Supplies as may enable me to prosecute the War with vigour; which is the only means to procure peace to Christendom, with the safety and honour of England.—I must likewise put you in mind, that the Act of Tonnage and Poundage expires at Christmas; and I hope you will think fit to continue that Revenue to the Crown: which is the more necessary at this time, in regard the several branches of the Revenue are under great Anticipations for extraordinary Expences of the War, and subject to many demands upon other accounts. I cannot but mention to you again the Debt for the Transport Ships employed in the reducing of Ireland; which is a case of compassion, and deserves relief.—My Lords and Gentlemen; I should be glad you would take into your consideration the preparing some good Bill for the Encouragement of our Seamen: you cannot but be sensible how much a law of this nature would tend to the advancement of trade, and of the naval strength of the kingdom, which is our great interest, and ought to be our principal care."

The Triennial Bill passed.] The commons adjourned to the 19th of Nov. when the first thing they did was to order Mr. Harley to prepare and bring in a Bill 'For the frequent meeting and calling of Parliaments*,' which they

* Somerville, p. 375.

* "It is remarkable, that though the sessions was opened six days later than was expected, the Commons did not proceed to business; but, on the contrary, adjourned till the 19th; which seemed to indicate, either that the Plan was not settled, or that some preparatory measures were first to be taken with the leaders of the opposition: bishop Burnet suggests, That the 'Bill of Frequent Parliaments,' or, as it hath been since called, the 'Triennial Bill,' was, by express bargain, the price of the Supply: and so far, indeed, this suggestion is countenanced by the matter of fact, that the first material order of the house, after adjournment, was for Mr. Harley to prepare and bring in the said Bill: And what followed was calling for accounts, estimates, contracts, and all those other papers which are made use of to justify demands on one side, and compliances on the other. On the 30th the Triennial Bill was sent up to the lords, and on the 18th their lordships signified by Message, That they had agreed to it without amendment; and in every stage of its progress the Tunnage-Bill waited upon it, if it did not bear it company.—Of the former of these bills, as well because of the many fruitless efforts which had been made to obtain it, as because of the extraordinary fate which many years afterwards overtook it, a copious account ought to be given.—The necessity of 'Frequent Parliaments' had been asserted in the last Article of the Declaration of Rights; but then it had been asserted in such indefinite terms, that the king did not think himself obliged to observe it: and in the courtiers sense, 'frequent sessions' did as well: when, therefore, experience began to shew, that long parliaments, and all the abuses and corruptions they produced, were as fondly cherished in this reign, and by the same party, which in that of Charles 2 had been so eager to detect, and expose them, this expedient of

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had been so earnest for in former Sessions, and were resolved to insist upon in this. The Bill was easily drawn up, and presented November the 22d, and read with dispatch the third time, and past December the 18th; and sent up to the lords, who on the 18th, gave it their concurrence, without any Amendments.

A Supply voted.] The commons likewise went chearfully on with the Supply, and having examined the Estimates for the next year's Service for the War; the Accounts of the Monies paid to the Fleet, to the Army, to the Allies, and for Forage, and enquired into the Quotas the Confederates were severally to furnish, they voted, 2,332,712*l.* for the Navy, 2,382,000*l.* for the Army. To be raised by 4*s.* in the pound Land-tax, and other Subsidies. They continued the Duties of Tonnage and Poundage five years longer; and his majesty pased that Bill, and the Triennial Bill at the same time, Dec. 22.

Mr. Dyer, a News-Letter-Writer, reprimanded for noticing the Proceedings of the House.] Dec. 21. A Complaint being made to the house, That Dyer, a News-Letter-Writer, has presumed in his News-Letter to take notice of the Proceedings of this House; Resolved, "That the said Dyer be summoned by the serjeant at arms to attend this house tomorrow morning to answer the said Complaint."

Dec. 22. The house being informed, That Dyer, the News-Letter-Writer, attended, according to the order of yesterday; he was called in and heard touching the Complaint made against him: and, acknowledging his offence, humbly begged the pardon of the house for the same. And then withdrew.

Ordered, "That the said Dyer be brought to the bar, and, upon his knees, reprimanded by Mr. Speaker, for his great presumption."

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the Triennial Bill was again brought into play, and prosecuted with so much steadiness and perseverance, as, at length, got the better of all opposition.—The Preamble, which deserves to be had in everlasting remembrance, was conceived in these words: 'Whereas, by the ancient laws and statutes of this kingdom, frequent parliaments ought to be held; and whereas frequent and new parliaments tend very much to the happy union and good agreement of the king and people, we, your majesty's most loyal and obedient subjects, the lords, &c. do most humbly beseech your most excellent majesties, &c.' By the first enacting Clause, it was provided, That from thenceforth a parliament should be held once in three years at the least: By the second, That within three years at farthest, after the dissolution of the parliament then subsisting, and so from time to time for ever after, legal writs under the great seal should be issued, by the direction of the crown, for calling, assembling, and holding another new parliament. By the third, That no parliament whatsoever should have continuance longer than for three years only, at the farthest; to be accounted from the first day of the first session: And by the fourth, That the said then subsisting parliament should cease and determine on the first day of the next following November, unless their majesties should think fit to dissolve it sooner.—It should also be remembered, that, upon the last reading of the Bill in the house of lords, the lords Devonshire, Weymouth, Aylesbury, and Halifax, entered their Protest against it, for this Reason, viz. 'Because it tended to the continuance of the present parliament, longer than, as they apprehended, was agreeable to the constitution of England; and because of the ill consequences which, in many respects, might attend it.'—And now both Bills lying ready for the royal assent, his majesty came to the house of peers, on the 22d, and having first bestowed that grace on the Tunnage-Bill, suffered its companion, the Triennial-Bill, also to become a law.—Why his majesty formerly rejected this Bill, has been already insinuated: and that he passed it now, may possibly be imputed to the bargain discoursed of by Burnet: but the fact has been treated in so different a manner, by different Authors, that the reader has a right to have all their several authorities laid before him.—But by way of preparatory, it will be necessary to premise, That her majesty, the queen, had been taken ill the day before, and, according to the general apprehension, of the small pox, which had been very rife, and very fatal, during the whole season. Mr. Boyer, notwithstanding, says, 'That the passing the long-wished-for Bill, for the frequent meeting of Parliaments, before the queen was taken ill, was the most lucky hit of king William's politics.' According to bishop Kennet, 'There seemed to be a particular providence that directed the king to the wisdom of passing that popular Bill, before the Death of the Queen; for, if it had been deferred to this time, some people would not have failed to say, That he had been forced to it by the necessity of his affairs.' And as to bishop Burnet, (forgetting the 'Bargain' which he had spoke of before) he roundly declares, 'That if the king had not passed the Bill on the second day of the queen's illness, it is very probable he would never have passed it.' These are almost the very words of his lordship: but, perhaps, he ought rather to have said, That if the queen's illness had not happened, his majesty would not have passed it: for, upon her death, he could scarce have avoided it: and his policy consists in having provided against the worst, and thereby put in for all the merit, which his former refusal, had left within his reach. What, however, the former of these right reverend fathers does not care to admit, the latter makes no difficulty to avow: and it is certain, that if either the rectitude of the measure, or the demands of his people had weighed with him, they would have operated as forcibly in the first instance as in the last." Ralph.

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And, accordingly, he was brought in, and reprimanded.—Ordered, That the said Dyer be discharged, paying his Fees.

Resolved, "That no News-Letter-Writers do in their Letters, or other Papers, that they disperse, presume to intermeddle with the Debates, or any other Proceedings, of this house." *

Both Houses address the King, on the Death of the Queen.] Dec. 31. The Queen dying the 28th both houses immediately addressed his majesty, to condole the great loss, and give him assurance of their firm adherence to his interest. To the Lords, who presented their Address in a body to his majesty at Kensington, he was pleased to say in these few words of sorrow: 'I heartily thank you for your kindness, but much more for the sense you shew of our great loss, which is above what I can express.' To the Commons: "Gentlemen; I take very kindly your care of me and the public, especially at this time, when I am able to think of nothing but our great loss." †

* "This day," says Kennet "one Dyer, a very impudent writer of News-Letters, was justly reprimanded by the Speaker, for presuming to represent the proceedings of that house. But such a gentle rebuke could not reform a fellow, who wrote for two very necessitous causes, for the Jacobite party, and for bread." But the lord Mohun rebuked him more effectually some time after; for finding him out at one of his factious Coffee-houses, and shewing him a Letter wherein his lordship was named, he owned it, not knowing my lord; who immediately laid him on with a cudgel he had provided for that purpose, and made him swear to have no more to say of the lord Mohun.

† "About a month after Tillotson's death, the Queen was taken ill, but the next day her illness seemed to go off. The day following, she went abroad; but her illness returned so heavily on her, that she could disguise it no longer. She shut herself up in her closet that night some hours, and, burning many papers, put the rest in order. After that, she used some slight remedies, thinking it was only a transient indisposition; but it increased upon her, and within two days after the small-pox (which then raged about London) appeared with very bad symptoms. It is said, the physician's part was universally condemned, and that her death was imputed to the negligence or unskilfulness of Dr. Ratcliffe. He was called for; and it appeared, but too evidently, that his opinion was chiefly considered, and most depended on. Other physicians were afterwards called; but not till it was too late. The king was struck with this beyond expression. On the second day of her illness he passed the bill for frequent parliaments, which if he had not done that day, it is very probable he would never have passed it. Never was such a face of universal sorrow seen in a court, or in a town, as at this time: all people, men and women, young and old, could scarce refrain from tears: on Christmas day, the small-pox sunk so intirely, and the queen felt herself so well upon it, that it was for a while concluded she had the measles, and that the danger was over. This hope was ill grounded, and of a short continuance: for, before night, all was sadly changed. It appeared, that the small-pox were now so sunk, that there was no hope of raising them. The new Archbishop attended on her; he performed all devotions, and had much private discourse with her: when the desperate condition she was in was evident beyond doubt, he told the king, He could not do his duty faithfully, unless he acquainted her with the danger she was in: the king approved of it, and said, whatever effect it might have, he would not have her deceived in so important a matter. And, as the Archbishop was preparing the Queen, with some address, not to surprise her too much with such tidings, she presently apprehended his drift, but shewed no fear nor disorder upon it. She said, she thanked God she had always carried this in her mind, that nothing was to be left to the last hour; she had nothing then to do, but to look up to God, and submit to his will; it went further indeed than submission; for she seemed to desire death, rather than life; and she continued to the last minute of her life in that calm and resigned state. She had formerly wrote her mind, in many particulars, to the king: and she gave order, to look carefully for a small scrutoir that she made use of, and to deliver it to the king: and, having dispatched that, she avoided the giving herself or him the tenderness, which a final parting might have raised in them both.—The day before she died she received the Sacrament, all the bishops who were attending being admitted to receive it with her. When this was over, she composed herself solemnly to die; she slumbered sometimes, but said, she was not refreshed by it: she tried once or twice to have said somewhat to the king, but was not able to go through with it. Several cordials were given, but all was ineffectual; she lay silent for some hours: and some words, that came from her, shewed her thoughts began to break. In conclusion, she died the 28th of Dec. about one in the morning, in the 33rd year of her age, and 6th of her reign.—She was the most universally lamented Princess, and deserved the best to be so, of any in our age or in our history. Bishop Burnet has written an essay on her character, in which he affirms nothing is said, but what he knew to be strictly true, without the enlargement of figure or rhetoric.—The king's affliction for her death was as great as it was just; it was greater than those, who knew him best, thought his temper capable of. When she died, his spirits sunk so low, that there was reason to apprehend, that he was following her; for some weeks after he was so little master of himself, that he was not capable of minding business, or of seeing company.—There are two things that seem to cast some reflection on the memory of queen Mary; her

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STATE OF THE REVENUE.] Jan. 12, 1694-5. It was ordered, "That the Lords Commissioners of the Treasury do, with all convenient speed, lay before this house a State of the Revenue, with the Loans, Debts, and Charges upon the Revenue. Also an Account of the Establishment, Charge, and Expence, of the Civil List, from Michaelmas 1693 to Michaelmas 1694." Accordingly, on the 15th, Mr. Guy, from the Lords Commissioners of the Treasury, presented to the house the said Account; and the same was read; and is as followeth, viz.

behaviour, when she first came to Whitehall, after her father's abdication; and her lasting quarrel with her sister, the princess of Denmark. The queen arrived in England the very night before the throne was filled, and appeared so very chearful and gay, as if she had not the least concern for what had happened to her father. When she came to her own apartment at Whitehall, says the duchess of Marlborough, who was then waiting on her, she ran about it, looking into every closet and conveniency, and turning up the quilts upon the bed, as people do when come into an inn, and with no other sort of concern in her appearance but such as they express; a behaviour, which, though at that time the duchess was extremely caressed by her, she thought very strange and unbecoming. For, whatever necessity there was of deposing king James, he was still her father, who had been so lately driven from that chamber and that bed; and therefore, if she felt no tenderness, she should, as the duchess observes, at least have looked grave, or even pensively sad, at so melancholy a reverse of his fortune. But bishop Burnet's account of this incident entirely clears the queen from the charge of indecency, and want of tenderness on so moving an occasion. It had, it seems, been given out, that she was not well pleased with the late transactions, both with relation to her father and the present settlement. Upon which the prince wrote to her, that it was necessary she should appear, at first, so chearful, that no body might be discouraged by her looks, or be led to apprehend that she was uneasy by reason of what had been done. This made her put on a great air of gaiety, when she came to Whitehall, and, as may be imagined, had great crowds of all sorts coming to wait upon her. The bishop owns, he was one of those who censured her in his thoughts. He was of opinion, that a little more seriousness had done as well, when she came into her father's palace, and was to be set on her father's throne the next day. He had never seen the least indecency in any part of her deportment before, which made this appear so extraordinary, that some days after he took the liberty to ask her, how it came, that what she saw in so sad a revolution, as to her father's person, made not a greater impression upon her? She took this freedom with her usual goodness, and assured him, that she felt the sense of it very lively upon her thoughts. But she told him, that the letters, which had been sent her, had obliged her to put on a chearfulness, in which she might, perhaps, go too far, because she was obeying directions, and acting a part, which was not very natural to her.

"As to the breach between the queen and her sister, the bishop says, it cannot be mentioned without some reflections on her memory; and he owns himself much troubled to see her carry it so far. Doubtless, the queen imagined, the princess was in the wrong to seek after a parliamentary provision, without any previous application to her or the king, and afterwards to refuse to dismiss from her service the lady Marlborough, when the earl her husband was in disgrace, though earnestly desired, nay, ordered by their majesties so to do; and therefore she might think the princess had injured her in not submitting to her will. However this be, the queen saw her not in her last illness. For though the princess, upon news of the queen's indisposition, sent a lady of her bed-chamber, to desire that she might be allowed to wait on her majesty, she received for answer the next day, in a letter to the lady that brought the message, that the king and queen thanked her for sending and desiring to come: but, it being thought so necessary to keep the queen as quiet as possible, hoped she would defer it. This deferring the princess's coming, says the duchess of Marlborough, was only to leave room for continuing the quarrel, in case the queen should chance to recover, or for reconciliation with the king, if that should be thought convenient, in case of the queen's death. By this delay, the two sisters never met; though, as bishop Burnet says, the queen, when dying, sent a reconciling message to the princess. Be that as it will, upon the death of the queen, the princess, by advice of the lord Sunderland and others, wrote the following Letter to the king:

'Sir, I beg your majesty's favourable acceptance of my sincere and hearty sorrow for your great affliction in the loss of the queen. And I do assure your majesty, I am as sensibly touched with this sad misfortune, as if I had never been so unhappy, as to have fallen into her displeasure. It is my earnest desire, your majesty would give me leave to wait upon you, as soon as it can be without inconveniency to you, and without danger of increasing your affliction, that I may have an opportunity myself, not only of repeating this, but of assuring your majesty of my real intentions to omit no occasion of giving you constant proofs of my sincere respect and concern for your person and interest, as becomes, sir, your majesty's most affectionate sister, and servant, ANNE.'

"The king, thinking a reconciliation expedient, now that the princess was become the next heir to the crown by the act of settlement, consented that she should wait upon him at Kensington at a time he appointed, where she was received with extraordinary civility. The

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STATE of the REVENUE from Michaelmas 1693 to Michaelmas 1694; with the Loans, Debts, and Charges thereon: together with an Account of the Establishment.

CUSTOMS.—The Duties, by the act of parliament determined at Christmas now last past, commonly called the Customs; which did arise from Michaelmas 1693 to Michaelmas 1694; and did, at the end of every week, remain, after payments made thereout upon Debentures for goods reshipped; for Corn exported; or for Discounts upon bonds; with Allowances for damaged goods, and portage-bills, were divided into 3-4th parts, and 1-4th part: the 3-4th parts were constantly paid into the Exchequer, and there applied towards payment of the principal money borrowed thereupon, with the in-

person, who managed intirely the affair between the king and the princess, was the lord Sunderland. He had, before there was any thought of the queen's dying, designed to use his utmost endeavours to make up the breach. He also persuaded his majesty to give the princess St. James's house, to which the king added, by way of present, most of the queen's jewels. But, notwithstanding these and some other favours, the good correspondence, that appeared between the king and princess, was little more than an appearance. They lived indeed in terms of civility, and in formal visits; but the king did not bring her into any share in business; nor did he order his ministers to wait on her, and give her any account of affairs." Tindal.

While the Gazette was crouded with Addresses on the death of the queen, a printed Paper was privately handed about, which undertook to prove, That the Parliament was dissolved by the death of the queen; and which, it is reasonable to think, would have had a very singular effect, if the late passing of the Triennial Act had not disposed the bulk of the people to be satisfied with the provision made therein for a dissolution. Burnet assures us, That the earl of Rochester, nevertheless, made it his endeavour to establish that doctrine within doors, which had been handled so plausibly without: others again affirm, That the doubt was started by the earl of Nottingham. And that the earl of Portland replied, 'It was 'not fit to be mentioned, much less to be de-'bated:' but which soever of these peers it was, that had the boldness to make so dangerous a motion, it met with no countenance: for it was thought the wisest way to overlook a defect of form, if any such defect there was, rather than suffer the whole business of the year to languish, and the whole kingdom to be put into a ferment at so delicate a conjuncture, when more than ordinary caution was necessary for the sake of preserving peace at home. It does not appear that any hint of this nature was ever suffered to escape in the house of commons: on the contrary, they proceeded, without any scruple, to the business that lay before them.—As the Paper above alluded to is very curious we have thought fit to insert it in this place, for the information of posterity.

"Sir; You are pleased to observe in your Letter, That it was the general sense and discourse in the country, during the Queen's sickness, that in case she should then happen to die, they must go to a new Election of Members; for that her death would make a Dissolution of the Parliament: and this, you say, was held so plain a case, that you did not perceive that any body made any doubt of it, but was taken by all for granted; and that, therefore, you were not a little surprized to hear the Parliament were still sitting, notwithstanding her death: and the more so, for that you have not heard that either house so much as made any Debate or Question about it, either before or since her death; which (as you are pleased to add) puts you upon a request to me to know, How I conceive the matter stands in the laws of the land, that you may a little understand whether your representatives have dealt fairly with you? Now, though I might, in answer to what you say, only tell you, That it was then thought as plain a case here among the lawyers, and, as I have been informed, even among your very representatives themselves; and thence conclude it vain and needless to send you any particular opinion, especially of my own: yet to let you see how well the law of the land has provided for this case, and that we are upon no uncertainties in law, however we may be in men, in a matter of this high consequence and concernment to the kingdom, I will endeavour, as briefly as I can, to lay the law before you, in so plain and clear a light, that you may evidently see that the parliament became necessarily dissolved, in law, by the Queen's Death.

"Now you must know, whatever some may fancy that Parliaments are under the directions and restrictions of the common law, as well as any inferior court or corporation: by the law they have their existence, by the law they act, and by the law they cease: for the being of a parliament is a legal being, and therefore can no longer exist than the law upholds them: they are the king's writs that raise them, and call them together: it is under the immediate influence, and legal authority of these writs, that they sit and act; and when these legal writs, or the legal authority they have by them, ceaseth, they necessarily cease too, and fall into dissolution: so that whether the two houses, now sitting in Westminster, are a parliament, or not, is altogether a question of law; and this, as I conceive, will chiefly, if not altogether, depend upon this enquiry, whether the writs, issued out in the names of king William and queen Mary, were not abated and determined in law by queen Mary's death? For if they were, there is nothing legal left to support them, and consequently (whatever there may be else) can be no Legal Parliament; nor what they act, or pretend to enact, have any force or validity in law. Now in order to examine this candidly and impartially (for I utterly

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terest thereof; and out of the 1-4th part the Receiver-general paid so much of the charge of managing the Customs, as was payable by his hands; and the residue of the said 4th part was applicable to uses of the Civil-list.

The Receipts of the said Customs in the said year ended at Michaelmas 1694, over and above the Debentures, Discounts, and Allowances, aforesaid; and over and above the Charges of Management; did amount to £.406,987. 16. 6¼.; besides the sum of £.24,282. 7. 7½.; which was not the real produce of the Revenue, but money within the said year advanced, and paid before-hand, by the Receiver upon the said 4th part.

The Principal Money remaining unpaid this 14th of Jan. 1694, upon the Register for the 3-4th Customs, doth amount to £.232,447. 15. 9.

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abhor all unfair or unfaithful dealing) I will first set before you a true copy of the writ by which this parliament was called; and also so much of the late Act of Settlement of the Crown, 1 Wm. and Mary, as concerns this question, that you may the more clearly discern and judge of what I hereinafter say.

"The Act 1 William and Mary first reciting the donation of the crown and royal dignity, by the Convention to the prince and princess of Orange, and that 'thereby they did become, 'and of right ought to be, our sovereign liege 'lord and lady, king and queen of England, '&c. in and to whose princely persons the 'royal estate, crown, and dignity of these 'realms, with all honours, stiles, titles, regalities, prerogatives, powers, jurisdictions, and 'authorities to the same belonging, are most 'fully, rightfully, and intirely invested and incorporated, united and annexed;' then goes on, and says, That it is therein 'enacted and 'declared, that the crown, and regal government of these realms, with all and singular 'the premisses thereunto belonging, shall be 'and continue to their said majesties, and the 'survivors of them, during their lives, and the 'life of the survivor of them: and that the 'intire and full exercise of the regal power 'and government be only in and executed by 'his majesty in the names of both their majesties, during their joint-lives; and after 'their deceases, the crown and premisses shall 'be and remain to the heirs of the body of her 'majesty; and so on to the princess Ann, &c.'

"And the Writ is this: 'Gulielmus et Maria, 'Dei Gratia, Angl. &c. Rex et Regin. Fidei 'Defensor. Vicecomit. B. salutem. Quia de 'advisamento et assensu consilii nostri pro 'quibusdam arduis et urgentibus negotiis nos, 'statum, et defensionem regni nostri Angl. et 'eccles. Anglican. concernen. quoddam Parlia'mentum nostrum apud civitatem nostram 'Westminster, vicesimo die Martii prox. futur. 'teneri ordinavimus et ibidem cum prelatis 'magnatibus et proceribus dicti regni nostri 'colloquium habere et tractatum. Tibi precipimus firmiter injungend. quod facta proclamatione in prox. com. tuo, post receptionem 'hujus brevis nostri tenend. de die et loco predictis, duos milites gladiis cinctos magis 'idoneos et discretos com. predict. et de qualibet civitate com. illius duos cives et de 'quolibet burgo duos burgenses de discretioribus et magis sufficient. libere et indifferenter per illos qui proclamatione hujusmodi 'interfuerint juxta formam statuti inde edite 'et provis-elegi et nomina eorundem militum 'civium et burgense sic eligend. in quibus'dam indentur inter te et illos qui hujusmodi 'interfuerint inde conficiend. licet hujusmodi 'eligend. presentes fuerint vel absentes inseri 'eosque ad dictos diem et locum venire fac. 'Ita quod iidem milites plenam et sufficientem 'potestat. pro se et comunit. com. illius ac dicti 'cives et burgenses pro se et comunitate civi'tat. et burgor. predictor. divisim ab ipsis ha'beant ad faciend. et consentiend. his quæ 'tunc ibidem de comunit. consilio dicti regni 'nostri (favente Deo) contingent. ordinari 'super negotiis antedict. Ita quod pro defectu 'potestat. hujusmodi seu propt. improvidam 'electionem militum civ. aut burgens. pre'dictor. dict. negotia infecta non remaneant 'quovismodo, &c.'

"Now, it will not be denied, but that all Parliament Writs must naturally, necessarily, and essentially, be derived and proceed from the whole and entire sovereignty and royal dignity; and consequently these our writs must necessarily have their being and authority as well from queen Mary as king William; because the sovereignty and royal dignity, at the time of issuing these writs, were no less united and incorporated to the natural person of queen Mary than king William; they both then being actually and jointly in the possession thereof, however distinguished in the exercise of them: and therefore the clause for using her name in the exercise of the regal power and government, was not inserted in the said act of settlement, as a matter only of respect and deference, but as a thing necessary and essential to that share of the sovereignty wherewith her person was invested: in respect of which sovereignty, so lodged in her, treason, no doubt, might no less have been committed against her natural person, than against his: so that her name was necessary to these writs, *ex essentia rei;* and the writs could not have been sufficient or valid in law, unless her name had been used in them, and that although there had been no such clause in the said act, for the using both their names. Now, therefore, if the validity of these writs essentially consisted in their being in the names of both, as proceeding from the joint regal authority of these two joint sovereigns; and could not have been good in either of their names alone, for want of legal sovereignty enough in either of them to impregnate the writs: then must the death of either necessarily abate and dissolve these writs, and the parliament depending thereon; because the sovereignty of the one, which necessarily went to the authority and support of these writs, is demised or departed from the natural body wherein it was invested, and consequently from

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besides the interest thereof.—The Principal Money borrowed, and remaining unpaid this 14th of Jan. 1694, upon the 1-11th Customs, is £. 15,000. for which interest is also payable. The annual Charge, usually borne on the Revenue of Customs by Letters Patents, or Grants for Pensions, and other yearly payments, part of the Civil-list, doth amount, in the whole, unto £ 6,783. 5. 1½. Whereof the Particulars are contained in the annexed List, marked (A).

Coffee and Tea.—The new Duties on Coffee and Tea were applicable to uses of the Civil List; and the net Receipts thereof, in the year ended at Michaelmas 1694, did amount to £. 2,153. 9.; but these are expired at Christmas last, and are not regranted by the act newly passed.

Excise.—The rates of Excise granted in fee, and those now enjoyed during his majesty's life, which are called the hereditary and tem-

these writs. 'Nihil enim tam conveniens est 'naturali æquitati unumquodque dissolvi eo 'ligamine quo constituitur,' as says Bracton. Nor is it any objection to say, That the sovereignty vested in queen Mary, did, by her death, become vested in king William as survivor, and the whole sovereignty is now in him; unless any one could say, or think, that her sovereignty, which was of absolute necessity to make good these writs, and which, by her death, departed these writs, could immediately again re-enter into these very writs; which would be very absurd to say. So that these writs must either remain half alive, and half dead, or else must wholly abate and determine by the queen's death. And to shew you further, that here was a demise, and consequently a dissolution, please to observe, that it is not the kingship, or sovereignty *in genere*, that preserves these writs; for then they might be as durable as the monarchy itself; for the king *in genere* never dies, but these writs depend upon the continuance of the natural person of the king *in individuo*, who issued them out: now the king, who issued them forth, was king William and queen Mary, (they both being but *un roy* in the sense of the law) but this *un roy* is changed and gone by the queen's death; unless any one can say, that king William alone is the same *roy in individuo* with king William and queen Mary. Therefore here is a demise of the crown, and consequently an abatement of the writs; for where the sovereignty ceases to be *in statu quo*, but is become otherwise lodged, and the sovereign stile altered and changed, by the death of any natural person invested with the sovereignty, and a new stile used in all writs, patents, and acts of government; such change and alteration is in law a demise, and what this kingdom ever took notice of as such: and if so, then certainly the queen's death was a demise; for thereby the sovereignty thereby became otherwise lodged than it was before: for the sovereignty thereby became wholly in king William, whereas before he was but a joint-tenant with queen Mary; and, whereas, before the regal stile was king William and queen Mary, now, by her death, the regal stile is altered to king William 3, and all this by the act of God. So that all the legal demonstrations, that can go to the proof of a demise of the crown, proves this plainly to be one; and consequently the parliament dissolved, if a demise can do it. It is not at all material to this argument, how king William now claims or holds the crown, whether by survivor, or otherwise; all that need be asked is but this, whether or no any sovereignty was vested in queen Mary's natural person, and whether the same be not thence departed by her death? For if so, then according to our laws, (if the law knows what a demise is) there was a demise by her death.

"As to the Power given king William by this act, for his only exercise of the regal power, that, if it makes any thing, makes the dissolution yet more evident; for that no ways altered, or affected the joint lodgment or settlement of the sovereignty, but was only as in the nature of a warrant of attorney; which, by the express limitation of the act, wholly determined by her death, being given only during their joint lives. But king William now has the sole exercise, not by virtue of this clause in the act, but as resulting and flowing from his sole title by survivor: and therefore these writs, if they were grounded or depended on his sole exercise, must consequently be at an end for this reason also.

"Besides, from the very nature of joint-tenancy, these Writs must be determined: for, was it ever made a question in law, where two joint-tenants grant any authority to any person or persons, but that the death of the one joint-tenant determines the authority so granted? If two joint-tenants make a letter of attorney to any person or persons, to do any act or acts, is not the death of one of such joint-tenants, a determination in law of such letter of attorney? Suppose two joint-tenants of a manor grant the same to one or more persons, and one of these joint-tenants dies, can the grantees claim any more than a moiety only as from the survivor? For though a surviving joint-tenant may, in some cases, claim wholly as immediately from the donor; yet nothing is plainer in law than that they that have any grant or authority from two joint-tenants, cannot afterwards claim as from the surviving joint-tenant only, but must from both the joint-tenants, respectively, according to their respective interests and estates: and therefore, if the parliament cannot now make good their sittings, as if called *ab initio* from king William only, (which he then alone had no power to do) then, certainly, neither can the sole title of king William, now by survivor, stand them in any stead.

You may please to observe further, That for the Parliament to continue longer than the joint lives of king William and queen Mary, is as contrary to the end and intent of their writs,

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porary Excise, did, by the receipts thereof in the year ended at Michaelmas last, produce, in net money, over and above the charges of management, the sum of £. 413,053. 14. 0¾.

The Principal Money borrowed and charged by tallies on the said two branches, and now remaining unsatisfied, doth amount to the sum of £. 260,748. 11. 11.; and interest is payable for the same.

Besides which sum of £.260,748. 11. 11. and interest, the said hereditary branch of Excise stands charged with an old debt of £. 1,333,873. 14. 7¼. due to several bankers, and others, or their assigns; for which his late majesty king Charles the 2d granted to them, and their heirs, several sums, making £.80,032. 8. 1. per ann. in the nature of perpetual interest, until they should be respectively satisfied the principal; and the said perpetual interest is in arrear for 11¾ years, amounting to

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as it is without any authority from them. The writ tells you, That they, viz. king William and queen Mary, for some high and urgent matters concerning themselves, and the state and defence of the kingdom, &c. having, by the advice of their council, appointed a parliament at Westminster, and there to have a *colloquium et tractatum*, i. e. conference and consult with the prelates, and great men of their kingdom, king William and queen Mary command the sheriff to proclaim the same in his next county court, after the receipt of this their writ, to cause two such knights, &c. to be chose, &c. as shall have sufficient power for themselves, and the commonalty of the county, &c. to do and consent to such things as shall fall out to be ordained by the common council of their kingdom, upon the matters aforesaid, &c. And the knights, &c. after they are chose by virtue of the writ, have, by indenture, full power given them by the electors of the county, &c. for themselves, and the whole county, to do and consent as aforesaid.

"Now the power and trust given by the electors to the knights, &c. are conform and correspondent to the power required by the writ, and that is, to represent them to king William and queen Mary jointly; and to do and consent to such things as shall be ordained, as well concerning king William and queen Mary's persons, as the state of the kingdom: therefore, when either of their persons fail, this power and trust given by the electors, must fail and determine; for this being but a bare authority, must be strictly observed and pursued. Now that this intends their particular natural persons, nothing can be more evident, unless the prelates and great men could have *colloquium et tractatum*, with their politic capacities. So that the power these parliament-men had from the people, of representing and doing for them, is at an end; unless they could still represent them to, and consent and do, as well for queen Mary as king William; which was what the writs required, and the people chose and sent them for. If the parliament, when they made this Act of Settlement, would have had a parliament to continue in such a case as this, they should have made provision for it in the act, and have given power for the making of such writs as would have served on such an occasion; and then the people would have directed their choice of representatives, and impowered them accordingly: but without an act of parliament, the antient writs cannot be altered, any more than any other part of the common law: neither could the people give their representatives any other power than the writs required; and these only go to king William and queen Mary, jointly, and not to the survivor of them. Besides, if the death of the queen did not dissolve this parliament, then, certainly, neither could king William's, in case he had happened to die first: (for she had the better estate in the sovereignty, as having an estate tail to some purposes executed in her, which, in case she had survived, had been executed to all purposes.) And if so, then was here a power in them of holding the same parliament, during their joint lives, and the life of the longer liver of them: and by the same reason, if the regal power, had, after the same manner, been settled also on the prince and princess of Denmark, and duke of Gloucester, and twenty more, the same parliament might continue during all their lives, and the lives of the survivors and survivor of them; and consequently there would have been an end of the peoples elections, for one age at least, unless the person who, for the time being, should have the exercise of the regal power, should think fit to dissolve them. Of what ill consequence it may be to the monarchy, for parliaments once to begin to survive demises of the sovereignty, I will neither consider nor examine, confining myself altogether to the matter of law. Only I will say, with the Lord Chief Justice Coke, (4 Inst. 37.) That the more high and absolute the high court of parliament is, the more just and honourable ought it to be, and give example of justice and fair dealing to the kingdom. And as Fleta says of kings, so it may be said of parliaments too, they are 'sub Deo et lege.' (As here the parliament is dissolved in law by the act of God) and though, as sir Robert Atkins says, a power limited by law, may be thought 'potestas minor, sed tutior et diuturnior.'

"The Parliament Writs, and the legal certainty of them, is all the legal security the people have for the great trust and concernment they commit to parliaments; and if these are once exceeded, and a parliament got beyond the boundaries of them, and consequently of the law, they may, for all that can be said, as well continue to sit after the deceases of both king William and queen Mary, as after the decease of either; for no one can determine who or what can make them cease and dissolve, when the law cannot.

"To add yet one consideration more; I would fain know how any laws can be enacted, by the

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£. 940,380. 14. 11. or thereabouts; and the said two branches of Excise, jointly or severally, do stand specially charged by particular letters patents or grants for pensions, and other yearly payments, part of the Civil-list, with several annual payments, amounting to £. 79,069. 15. 2. per ann.; whereof the particulars are contained in the schedule hereunto annexed, marked (A).

LOW WINES.—The duties upon the Low Wines produced, in the net receipts thereof, for the said year ended at Michaelmas 1694, the sum of £. 13,698. 15. 8¼.; and have no debt thereupon.

LETTER-MONEY.—The Revenue arising in the General Post-office, in the year ended at Michaelmas 1694, produced, over and above the charges of management, the sum of £. 59,972. 14. 9.

The present debt, by tallies upon this Revenue, is £. 19,205. 9. 2.; and the yearly charge, by special grants thereupon, doth amount to the sum of £. 21,200. per annum, which is also part of the charge of the Civil-list, as appears by the annexed List, marked (B).

SMALL BRANCHES, and CASUALTIES.—All the sums which have been answered in money into the Receipt of the Exchequer, or by tallies levied upon the small Branches and Casualties, within the year before-mentioned, excluding the Coinage-duty, which is appropriated to the Mint, do amount to the sum of £. 77,435. 11. 5¼.

The Revenue of Wine-Licences, one of the small Branches, was granted to sir Stephen Evance, and others, for ten years, from Lady-day 1691; and thereupon they advanced £. 30,000. of which there still remains unpaid £. 21,000.

The yearly Charge on small Branches, as by the List marked (B) doth amount; viz.

	£.	s.	d.
On the Alienation-Office for Pensions, part of the Civil List	1,800	—	—
On the Duchy of Cornwall, for the like	5,330	—	—
On the Revenue of Wales, for the like	2,500	—	—
On First-Fruits and Tenths, for the like	12,450	—	—
On the Lotteries, for the like	3,992	2	6

(A) Charged by Letters Patents or other Special Grants; viz.

ON THE CUSTOMS.

For the Consul at Algiers per annum.	600	—	—
For the Consul at Tripoly	380	—	—
For the Comptroller of the Treasurer of the Chamber's Office	150	—	—
For the Master of the Otter-Hounds	28	0	1½
For the 2 Secretaries of State, each 1, 850 *l.*	3,700	—	—
For the Lord Privy-Seal	365	—	—
For Anias and Juliana Hext	200	—	—
Samuel Clark	300	—	—
Geo. Tuthill	100	—	—
Corporation of Lyme	100	—	—
Chancellor of the Garter	570	5	—
Thomas Hyde	50	—	—
Corporation of Berwick	100	—	—
Corporation of Dartmouth	40	—	—
Charles Fairfax	100	—	—
	6,785	5	1½

ON THE HEREDITARY AND TEMPORARY EXCISE.

For the Queen Dowager	12,209	15	2
Prince and Princess of Denmark .	50,000	—	—
Duchess of Buccleugh	4,000	—	—
Duchess of Richmond	1,000	—	—
Duke of Grafton 2000 *l.* and 2000*l.*	4,000	—	—
Duchess Dowager of Grafton	1,000	—	—
Duke of Southampton	3,000	—	—
Duke of Northumberland	3,000	—	—
Sir William Killigrew	500	—	—
Sam. Morland, Esquire.....	200	—	—
Fishermen and Adventurers of Great Yarmouth	160	—	—
	79,069	15	2

The CHARGE of the CIVIL LIST in the Year, from Michaelmas 1693, to Michaelmas 1694, will, by computation, be as followeth; viz.

In the Cofferer's Office, for the ordinary and extraordinary, as per his Certificate	100,485	—	—
In the Treasurer of the Chamber's Office, as per Certificate of the Deputy Comptroller	37,330	8	8

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legal consent of this parliament, but only such as receive their sanction from the authority both of king William and queen Mary? For if the writs neither speak of, or imply any other, neither by the people are their representatives chosen or impowered to consent to any other, but expressly by the peoples indenture, annexed to the writs impowered, only by them to consent to such things as shall be ordained at the said parliament of king William and queen Mary, mentioned in the said writs, how could this be any longer called the parliament of king William and queen Mary, than whilst queen Mary was alive?—Besides, it has ever been a steady standing rule in all parliaments, and the law, That all acts of parliament must relate to the first day of the session; so that what cannot relate to the first day of the session, can be no act. And I think no one will say, that acts made now, under the reign of William 3, can have any relation in law to the first day of the session, which was in the reigns of king William and queen Mary, any more than they can relate to William the Conqueror.

"Sir; I could say much more, to let you see how plainly and certainly the laws of the kingdom have fixed and fenced the legal limits and boundaries of parliaments, and how evidently and inevitably, by the queen's death, the parliament was dissolved in law; but supposing I have said more than enough already, to satisfy you that there is foundation sufficient in the law for the assurance you had in the country of the Parliament's Dissolution by the queen's Death; and therefore I shall add no more, but that I am your faithful servant."

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In the Great Wardrobe, as per certificate	35,429	3	5
In the Office of the Robes, per Estimate	4,000	—	—
In the Office of the Works, ordinary and extraordinary	35,365	7	4¼
To the Paymaster of the Gardens, as per Certificate	8,787	5	—
In the Office of the Stables; to wit,			
On settled Allowances	8,376	7	6
And for Extraordinaries, by Estimate	20,000	—	—
To Foreign Ministers on their ordinary Entertainments and for Extraordinaries by computation	30,676	7	7
To divers Persons on Fees and Salaries, payable at the Exchequer, over and above what paid to Officers of the Customs, Excise, Post-Office, &c. or by the Receivers thereof	54,274	—	3
To divers Persons on Pensions and Annuities, as by the annexed List	79,147	6	2
To the Band of Pensioners	6000	—	—
To the late Queen	50,000	—	—
To the Queen Dowager	18,209	15	2
To the Prince and Princess of Denmark	50,000	—	—
To divers Persons, as of their Majesties Bounty, there was paid at the Exchequer	29,714	6	11

For Secret Services was paid as follows; viz.

By Mr. Guy	37,106	7	8¼
By Earl of Nottingham	3,000	—	—
By Duke of Shrewsbury	1,000	—	—
By Sir John Trenchard	2,500	—	—
In the Privy-Purse, per estimation	30,000	—	—
For Jewels and Plate, per estimation	10,000	—	—

For Contingencies; to wit,

The Libates of the Exchequer, Printers Bills, Messengers Bills of the Court, and Receipt of the Exchequer, Incidents to Commissioners of Accounts, Law-Charges, Surplusages of Accounts, Rewards for apprehending Highwaymen, Receivers Rewards, and many other particulars, there was paid within this Year	42,680	5	6¼
	694,081	1	4½

PAYMENTS made to the CIVIL LIST in the Year ended at Michaelmas 1694, Part of which became due or incurred within the same Year: And the Residue consisted of Arrears incurred within preceding Years; viz.

Cofferer for the Household	99,109	4	—
Treasurer of the Chamber, for his Office	36,818	16	3½
Wardrobe	15,500	—	—
Robes	7,100	—	—
Works	25,346	10	—
Gardens	9,661	14	8
Stables	13,800	—	—
Foreign Ministers	26,281	1	8
Fees and Salaries	88,551	5	3¼
The Queen	64,000	—	—
Queen Dowager	10,709	15	2
Prince and Princess of Denmark	47,000	—	—
Pensions and Annuities	55,566	15	1¼
Bounties	29,714	6	11¼

SECRET SERVICES.

By Hen. Guy, Esq.	37,106	7	8¼
By Earl of Nottingham, late Secretary	3,000	—	—
By Sir John Trenchard	2,500	—	—
By the Duke of Shrewsbury	1,000	—	—
Band of Pensioners	6,000	—	—
Jewels and Plate	5,900	—	—
Privy Purse	39,795	—	—

CONTINGENCIES; viz.

Rewards to Receivers, Law-Charges, Libates, Printing, Exchequer, Messengers Bills, Commissioners of Accounts for Incidents, Surplusages, Rewards for taking Highwaymen, and many other particulars	42,680	5	6¼
	662,141	2	11

(B). A LIST of PENSIONS and ANNUITIES on the CUSTOMS.

Amias and Juliana Hext, per Annum	200	—	—
Samuel Clark	300	—	—
Geo. Tuthill	100	—	—
Corporation of Lyme	100	—	—
Corporation of Dartmouth	40	—	—
Town of Berwick	100	—	—
Tho. Fairfax	100	—	—
Tho. Hyde, & Uxor	50	8	—
Chancellor of the Garter	570	5	—
	1,560	5	—

ON THE HEREDITARY AND TEMPORARY EXCISE.

Duchess of Buccleugh	4,000	—	—
Duchess of Richmond	1,000	—	—
Duke of Grafton, 2,000*l.* and 2,000*l.*	4,000	—	—
Duchess Dowager of Grafton	1,000	—	—
Duke of Southampton	3,000	—	—
Duke of Northumberland	3,000	—	—
Sir William Killigrew	500	—	—
Sam. Morland, Esquire	200	—	—
Fishermen and Adventurers of Great Yarmouth	160	—	—
	16,860	—	—

ON THE POST-OFFICE REVENUE.

Earl of Rochester, per annum.	4,000	—	—
Duchess of Cleveland	4,700	—	—
Duke of Leeds	3,500	—	—
Duke of Schonberg	4,000	—	—
Earl of Bath	2,500	—	—
Lord Keeper	2,000	—	—
William Dockra, to end at Midsummer, 1697	500	—	—
	* 21,200	—	—

* In this place the following article; viz. "on the 12*d.* per chaldron, sea-coals, sir Tho. Clarges 500*l.*;" is struck through in the Journal by order of the 18th of this month: and the deduction afterwards of 500*l.* from the total is upon account of this obliteration.

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ON THE ALIENATION-OFFICE.

Countess of Plymouth, part of her jointure	1,000	—	—
Sir William Morris	300	—	—
Duke of St. Albans, part of 2000*l.*	500	—	—
	1,800	—	—

ON THE DUCHY OF CORNWALL.

Earl of Bath, perpetuity,	3,000	—	—
Lord Keeper	2,000	—	—
Sir Peter Killigrew	300	—	—
Minister of Lestwithiel	30	—	—
	5,330	—	—

ON THE REVENUE OF WALES.

Henry D'Averquere	2,000	—	—
Duke of St. Albans, part of 2000*l.*	500	—	—
	2,500	—	—

ON THE 1ST FRUITS AND TENTHS.

Earl of Oxford	2,000	—	—
Countess of Plymouth, part of her jointure	2,000	—	—
Countess of Bristill	2,000	—	—
Earl of Bath	2,500	—	—
Extraordinaries of Charles Toll, for years to come	1,000	—	—
Duke of St. Albans, part of 2000*l.*	1,000	—	—
Sir Sam. Morland	600	—	—
Eliz. Hamilton	500	—	—
James and William Hamilton	850	—	—
	12 450	—	—

ON THE LOTTERY-RENT.

Solomon Foubert	500	—	—
Philip Howard	300	—	—
James Gray	400	—	—
Sir Gabriel Silvius	300	—	—
Lady Armstrong's daughters	200	—	—
Charlotte Killigrew	200	—	—
Susanna Leighton	100	—	—
Jane Berkley	200	—	—
Eleanor Needham	300	—	—
Mary Fanshaw	200	—	—
Captain John Richards	200	—	—
Sir Cha. Slingsby	40	—	—
Eliz. Slingsby	20	—	—
Colonel Edmund Ogar	45	12	6
Colonel Hen. Hubank	45	12	6
Richard Sydenham, and Grace his wife	40	—	—
Anne Duke	45	12	6
Captain John Baker	36	10	—
Captain Kettleby's grandchildren	36	10	—
Captain John Watkinson	18	5	—
Anne Ashbury	20	—	—
Widow Collins	20	—	—
Mr. Ross his three daughters	60	—	—
Mrs. Buss	20	—	—
Edward Duke	24	—	—
Colonel Vaughan	300	—	—
Dame Martha Cary	20	—	—
Dame Patronella Cary	20	—	—
Captain James Vosper	20	—	—
Captain Griffith Standen	20	—	—
Anne Acton	20	—	—
Amy Goldsborough	20	—	—
Elizabeth Hall, Jane Bell, Margaret Pretty, each 20*l.* per ann.	60	—	—
Victoria Slingsby	20	—	—
Mallet Slingsby	20	—	—
	3,092	2	6

ON THE EXCHEQUER IN GENERAL.

Duke of Norfolk	3,000	—	—
Duke of Ormond	2,500	—	—
Duchess Buckingham	1,200	—	—
Ann Golding	120	—	—
Nicholas Needham	120	—	—
Kath. Gunter	200	—	—
Earl of Darby, et al. for poor Ministers in the Isle of Man	100	—	—
Rachel and Francis Wyndham	400	—	—
An. Lawson	250	—	—
Wm. Levet	200	—	—
Doctor Nicholas Gibbon	100	—	—
Robert Bertie	40	—	—
Lodowick Bray	40	—	—
Jane Browning	60	—	—
Charles Dorner	120	—	—
Earl of Kinoule	1,000	—	—
Christ's Hospital	370	10	—
Poor of St. Martin's	100	—	—
Poor of Westminster, and King Cha. 1st's Hospital there	100	—	—
Poor of St. James's	50	—	—
Poor of St. Mich. Cornhill, a perpetuity	12	4	—
Poor of St. Magne's Parish, London, the like	21	4	8
Poor of St. Buttolph's, the like	7	—	—
Poor of Walbrook, the like	7	13	4
Master of Southwell School	10	—	—
Eaton College	42	—	—
Emanuel College in Cambridge	16	13	4
Reader of Civil Law there	40	—	—
Reader of Physick there	40	—	—
University of Cambridge	10	—	—
Lady Margaret Professor at Oxford	13	6	8
Reader of Physick there	40	—	—
Reader of Civil Law there	40	—	—
Dean and Chapter of Litchfield	10	—	—
Vicar of Litchfield	15	—	—
Dean and Chapter of Westminster for French Ministers in the Savoy	60	—	—
Master of the Temple	37	6	8
Vicar of the Tower	6	13	4
Sir John Cotton, a perpetuity	5	6	8
Poor of the Town of Hampton	50	—	—
Thomas Lane, esquire	500	—	—
John Rogers and Anne his wife	100	—	—
Rachel and Frances Wyndham	400	—	—
Sir Tho. Wyndham	600	—	—
Colonel Gifford	200	—	—
Thomas Whitgrave	200	—	—
Nicholas Yates	100	—	—
The four King's preachers in Lancashire, out of the rent of the dissolved monastery of Furnes	200	—	—
	12,954	18	8
Total (general)	79,147	6	2
Deduct, see note	500	—	—
Total of Pensions & Annuities	78,647	6	2

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Mr. Foley, according to order, presented to the house, from the Commissioners for taking and stating the public Accounts, Abstracts of the Revenues of the Excise, Customs, Post-Office, and small Branches from Michaelmas 1693, to Michaelmas 1694. And the same was read; as followeth; viz.

Received within the said Time; viz.	£.	s.	d.	£.	s.	d.
By Hereditary and Temporary Excise	—	—	—	438,823	19	11
More, by low Wines	—	—	—	13,696	15	8¼
Out of which to be deducted,						
For Salaries of Officers	21,537	8	8			
For other incident Charges	4,482	17	2¼			
				26,020	5	10½
So the net Produce was	—	—	—	426,500	9	9
By the Post Office	—	—	—	89,312	2	9
Out of which to be deducted,						
For Salaries, as aforesaid, and Incidents	9,915	—	—			
For Packet-Boats	19,424	7	3			
				29,339	8	—
So the net Proceed was	—	—	—	59,972	14	9
By small Branches.						
Received net into the Exchequer	—	—	—	63,169	14	9¼
Total of these three Branches	—	—	—	549,642	19	3¼
By Tonnage and Poundage, or the old Customs	—	—	—	540,743	—	11½
Out of which to be deducted,						
For Debentures	80,836	4	2½			
For Salaries, as aforesaid	43,033	8	7½			
For Incidents	9,288	10	3			
				133,158	3	1
So the net Produce was	—	—	—	407,584	17	10½
By Coffee and Tea	—	—	—	2,454	17	11
Deduct for Allowances and Debentures	—	—	—	302	—	1
So the net Produce was	—	—	—	2,152	17	10
Note, This Duty is now expired, by Coinage appropriated to the Mint, received from 1st Sept. 1695 to the 1st Sept. 1694	—	—	—	10,832	14	10½
Deduct for Debentures	—	—	—	159	18	8½
So the net Produce was	—	—	—	10,672	16	2
By new Impositions on East-India Goods, Wine, Vinegar, and Tobacco	—	—	—	420,927	—	1½
Deduct for Allowances and Debentures	—	—	—	19,694	10	2½
So the net Produce was	—	—	—	401,232	1	11¼

Tho. Clarges, Tho. Pope Blount, Edw. Abney, Paul Foley, Char. Hutchinson, Ja. Houblon, Ro. Harley.

Ordered, That the consideration of the said State and Abstracts be referred to the committee of the whole house, to whom it is referred to consider further of Ways and Means for raising the Supply to be granted to his majesty, for carrying on the war against France with vigour.

PROCEEDINGS OF THE COMMONS AGAINST BRIBERY AND CORRUPTION.] January 12. The most remarkable business of this session was the Inquiry into Bribery, and the timely Check given to the most scandalous and dangerous Corruption, which had lately tainted, not only the agents of the army, and several members of the house of commons, but also the Speaker himself, and crept into his majesty's Privy-council. The Inquiry into these corrupt practices was as accidental as necessary. In the account of it, mention is made of the monstrous sums of thousands, and tens of thousands; yet, at the first, the payment of a petty sum of 10*l.* or less, had certainly prevented the discovery, the rise of which was from a Petition from some of the inhabitants of Royston in Hertfordshire against the Abuses of Officers and Soldiers in exacting Subsistence

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Money. The Petition which was presented on the 12th of January, set forth, "That captain Henry Cartwright's company of foot, belonging to colonel Hastings' regiment, being now quartered at Royston, demand the several sums following to be paid them weekly by the Petitioners for their Subsistence, over and above their lodging, and other necessaries, as the law requires; viz. To the lieutenant, 17*s.* 6*d.*; to the ensign, 14*s.*; the serjeant, 6*s.*; every corporal, 4*s.* 6*d.*; and every private centinel, 3*s.*; and threaten for non-payment to take the Petitioners goods: That the Petitioners are willing to give them such Subsistence as they are able to do, and as the law directs; but are not able to bear a Grievance of this nature, having formerly been great sufferers by quartering two companies of sir John Edgworth's regiment, from the 12th Feb. 1688 to the 15th of April 1689; for which the Petitioners never were paid one farthing: and praying the house to take the premises into consideration."

Ordered, 1. That capt. Henry Cartwright be summoned to attend this house on Friday next. 2. That the lieutenant and ensign of his company be also summoned to attend.

Jan. 19. Mr. Crosfeild attending, according to order, he was called in, and acquainted, That the house had taken notice of a printed Book delivered at the door of the lobby; by which he pretends, That he can make a discovery of great Embezzlements of public Monies: and that the house was ready to hear what he had to offer in relation thereunto. Whereupon he acquainted the house, That he had Proposals to make; and could produce several persons to make out the matter, if the house would put the same into a way of examination upon oath. And then withdrew.

Ordered, That the said Mr. Crosfeild do attend the Commissioners for taking and stating the public Accounts; and do lay before them his Proposals: and that they do examine the matter thereof; and report the same to the house, with all convenient speed.

Jan. 23. The house proceeded in the Examination of the matter of the Complaint of the inhabitants of Royston: and agent Tracy Pauncefort attending, according to order, he was called in, and examined. The Lieutenant and Ensign of Captain Cartwright's Company were called in, together with the said Agent Pauncefort, and all examined.

Resolved, nem. con. "That the Officers and Soldiers of the Army demanding and exacting Subsistence-money in their quarters, or upon their march, is arbitrary and illegal, and a great violation of the Rights and Liberties of the subject."

Ordered, 1. That the Commissioners for taking and stating the Public Accounts do, upon Friday next, lay before this house their Observations of the Abuses, and ill practices, committed by the several Agents of the Regiments of the Army. 2. That the said Commissioners do then also lay before this house the Names of such of the Agents of the regiments of the army, as have neglected to attend them upon their summons. 3. That agent Pauncefort do forthwith lay before this house a particular Account of all the Monies received from the earl of Ranelagh, and the times of such Receipts, since the 28th of May last; and how he has paid or disposed of the said Money; and when, and to whom, he paid the same; and what remains in his hands.

Jan. 25. Mr. Harley, from the Commissioners for taking and stating the Public Accounts, presented to the house, according to order, their Observations of the Abuses, and ill Practices, committed by the several Agents of the Regiments of the Army; and also the Names of such agents of regiments, as have neglected to attend them upon their summons; and the same was read as followeth; viz.

"That, shortly after the first constitution of the said Commission, in the year 1691, they found great sums of money to be issued, for the use of the Army, to persons called Agents to Regiments, whereof many of them have two, three, or more regiments, to the number of seven, under their charge; and thereupon directed precepts to all those persons to attend them, with their several Accounts; who were generally very backward, and unwilling, pretending themselves only accountable to the respective colonels that employ them, to whom they had given security.—Your Commissioners did then discover so many Abuses in their practices, that they thought it their duty to exhibit in writing to this house, in the said year; —That the Agency to regiments is a thing lately brought into practice; and many of the agents, paying great sums of money for their places, make their profits by deductions from the Soldiers.—That the Commissioners have since issued out precepts to all the Agents for the several regiments; and find it very difficult to have any Accounts, or direct Answers to the Matters required of them: and, by reason of the delays of most of them to exhibit perfect Accounts and Vouchers, the Commissioners have not been able thoroughly to examine all the complaints now before them; but they humbly offer to the house some general Observations, and particular Instances, thereunto relating.—And first, That the Subsistence of the English Army, being last year above £. 1,200,000, the greatest part thereof, besides Money for Cloathing, and Off-reckonings, is under the management and disposition of Agents to the Army; who have declared themselves accountable to none, but their respective colonels, for the disposition of the said money.—That several Complaints have been made to the Commissioners, that the Agents kept money in their hands, when the same hath been due to both the Soldiers for their pay, and for Debts in their Quarters; which hath occasioned several Injuries and Abuses to the subjects of these nations:—That several Agents keep back great sums of money from the private soldiers for Agency, and have also great Gratuities from inferior officers, under

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pretence of advancing money to them, when, many times, it hath been the publick money in their hands payable to them, and their regiments:—That they stop poundage out of money paid to tradesmen, sometimes 1*s.* 2*s.* 2*s.* 6*d.* and more in the pound; though the Soldiers also allow discount, or loss on tallies:—That several of the Agents are undertakers for Cloathing; whereby excessive gain is made; and the regiments brought much in debt, the charge being thereby augmented beyond what the off-reckonings will satisfy.—Besides the general backwardness of the Agents to account, Mr. Richard Roberts, Agent to three regiments, has had many precepts to make up his Accounts, ever since the year 1691; and had also, not long since, summons to attend the Commissioners, and shew cause why he did not bring in his Accounts; all which he hath refused to do.—Mr. Wm. Wallis was Agent to seven regiments, and is now to six; and it did appear to the Commissioners, That, in the Accounts which he had delivered upon oath, he had charged col. Lutterell's regiment, for cloathing, with much more than he paid the tradesmen for the same:—And several tradesmen, who received money from him, being examined upon oath, did testify, That Mr. Wallis did deduct from them, from 1*s.* to 2*s.* 6*d.* in the pound; and that he had set down to the regiment about double the sum by him paid, in sixteen several bills; the originals whereof are ready to be produced; and also a voucher, altered, by his own hand, from 81*l.* 18*s.* 0*d.* to 181*l.* 18*s.* 0*d.*:—That there are also other Charges against the said Wallis, for over-reckoning above 1000*l.* to that regiment and another, for recruits; but he hath refused positively to answer to that and other complaints."

Ordered, That the said Observations be taken into further consideration upon Monday next.

Several Agents examined and committed.] Jan. 28. The house proceeded to take into further consideration the Complaint made by the inhabitants of Royston; and also the Observations of the Commissioners for taking and stating the Publick Accounts, of the Abuses, and ill Practices, committed, by the several Agents of the Regiments of the Army: And Agent Tracy Pauncefort was called in, and presented to the house his Accounts of the Monies received of the earl of Ranelagh, since the 28th of May last; and how he hath paid the same; and when, and to whom; and what remained in his hands:—Also the said Agent, and lieut. Turner, col. Hastings, major Montall, and Agent Rd. Roberts, attending according to order were called in and examined.

Resolved, nem. con. "That Rd. Roberts, agent to col. Langston's and col. Englesby's regiments, for contemptuously neglecting and refusing to attend the Commissioners for taking and stating the Publick Accounts, upon their precepts and summons, be taken into the custody of the Serjeant at Arms."

Agent Wm. Wallis was called in, and examined.—Ordered, That the said agent be taken into the custody of the Serjeant at Arms.

Resolved, That agent Tracy Pauncefort, for neglecting to pay the Subsistence-Money to the Officers and Soldiers that quartered at Royston, having monies in his hands to do the same, be taken into the custody of the Serjeant at Arms.

Agent Pauncefort ordered to the Tower for a Contempt.] February 12. Agent Pauncefort attending, in custody, was called in; and examined. And, refusing to answer to several questions demanded by the house; he withdrew.—Afterwards he was called in again; and acquainted by Mr. Speaker, by order of the house, That if he did not immediately answer to the said questions, the house would proceed with the uttermost rigour and severity against him. And, he still persisting in his refusal; he withdrew.

Resolved, nem. con. "That Mr. Tracey Pauncefort, agent to col. Hastings's regiment, by obstinately refusing to answer to a matter of fact demanded of him by this house, hath thereby violated the privilege, and contemned the authority, of this house, and the fundamental constitution thereof."

Ordered, That the said Mr. Tracey Pauncefort be committed prisoner to the Tower of London, and that he be brought to the bar of this house, and, upon his knees, receive the said judgment.

And he was accordingly brought in: and, kneeling at the bar, the Judgment was pronounced by Mr. Speaker.

Feb. 15. A Petition of Mr. Tracy Pauncefort, was presented and read; whereby he acknowledged his offence, and expressed his sorrow for falling under the displeasure of the house; and humbly prayed, That he might be brought to the bar of the house again; being ready to declare to the house what they shall think fit to require of him.—He was accordingly again brought to the bar; but not giving satisfactory answer he was remanded back to the Tower.

Feb. 16. His brother, Mr. Edward Pauncefort, was likewise called in and examined. After which it was, Resolved, nem. con. "That Mr. E. Pauncefort, for contriving to cheat col. Hastings's regiment of 500 guineas; and for giving a Bribe to obtain the King's Bounty; be taken into the custody of the serjeant at Arms."

Mr. Guy, Secretary of the Treasury, sent to the Tower for taking a Bribe.] This day it was also Resolved, "That Mr. Henry Guy *,

* "That this gentleman was Secretary of the Treasury, and that a great part of the Secret-Service Money passed through his hands, has already been discoursed of more than once. That therefore the Anti-Courtiers should snatch this opportunity to set a mark upon him, is not so much to be wondered at, as that the Courtiers durst not venture to skreen him from the indignation he had incurred. But this is a new instance, that these

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a Member of this house, for taking a Bribe of 200 guineas, be committed Prisoner to the Tower of London."

Resolved, That a Committee be appointed to prepare an humble Representation, to be made to his majesty, laying before his majesty the several Abuses, ill Practices, and intolerable Exactions, of the Agents of the Regiments of the Army, upon the inferior Officers, and common Soldiers; whereby they have been forced to raise their Subsistence upon the people: and that the said Representation be also prepared upon the several Examinations which have been before this house, and upon the debate of the house thereupon.

Feb. 21. Mr. Pauncefort, attending, in custody, was called in; and acquainted by Mr. Speaker, That the house conceived he had not dealt ingenuously; but had prevaricated with them; and that he was to attend the Commissioners for taking and stating the Publick Accounts, to be examined upon oath: and that in case he did not answer clearly, and satisfactorily, the house would proceed against him with all rigour and severity.—And then he withdrew.

Account of Fees and Salaries payable at the Exchequer.] Sir Stephen Fox, from the Lords Commissioners of the Treasury, presented to the house, according to order, Accounts of the Fees and Salaries payable to divers Persons at the Exchequer; and of the Bounty-monies of their majesties paid there; and also of the Monies paid for Contingencies, for the last three years. The same were read; and are as follow; viz.

An ACCOUNT of Fees and Salaries payable to divers Persons at the Exchequer, 19th Feb. 1694.

	£.	s.	d.
Lord President	1,500	—	—
Lord Privy-Seal, 4*l.* per diem	1,460	—	—
Two Secretaries of State, each 100*l.* per annum	200	—	—
Twelve Judges of the three Courts of Law, each, 1000*l.*	12,000	—	—
Two Judges of Chester, 500*l.* and 200*l.* per ann.	700	—	—
Eleven Masters in Chancery, each 100*l.*	1,100	—	—
Puisne Baron	96	13	4
Attorney General	81	6	8
Solicitor General	70	—	—
Earl of Portland, Groom of the Stole, and First Gentleman of the Bedchamber	2,000	—	—
Nine other Gentlemen of the Bedchamber, each 1000*l.*	9,000	—	—
Eight Grooms of the Bedchamber, each 500*l.*	4,000	—	—
Master of the Ceremonies	300	—	—
Assistant to the Master of the Ceremonies	121	13	4
Marshal of the Ceremonies	100	—	—
Mr. Hill, Latin Secretary	80	—	—
Mr. Henshaw, French Secretary	66	13	4
Earl of Rumney, Master General of the Ordnance	175	18	4
Sir Henry Goodrick, Lieutenant General of the Ordnance	66	13	4
Sir Tho. Littleton, Clerk of the same	36	10	—
John Charleton, Surveyor, the like	36	10	—
Mr. Musgrave, Clerk of the Deliveries	18	5	—
Charles Bertie, Treasurer of the Ordnance	40	—	—
Wm. Meesters, Store-keeper of the Ordnance	54	15	—
Mr. Gardner, Keeper of the Small Arms	15	4	2
John Fitch, Work-master	120	—	—
Richard Leak, Master Gunner	36	10	—
Four Clerks of the Privy Council, each 250*l.*	1,000	—	—
Clerks, and others, in the Plantation Office, about	1,163	—	—
Keepers of the Council Chamber, each 45*l.* 12*s.* 6*d.*	91	5	—
Ten Serjeants at Arms, 100*l.* 7*s.* 6*d.* each per ann.	1,003	15	—
Sir Tho. St. George, Garter King at Arms	100	—	—
Sir Hen. St. George, Clarenceux King at Arms	40	—	—
Sir John Dugdale, Norroy King at Arms	40	—	—
Six Heralds at Arms, each 40 marks per ann.	160	—	—
Four Pursuivants at Arms, each 20*l.* per ann.	80	—	—
Earl of Bath, House-keeper at St. James's	80	—	—
Lord Fitz-Harding, Keeper of the Mall	100	—	—
Lord Villers, Keeper of Hide-Park	200	—	—
Earl of Rochester, Keeper of New-Park, at 6*s.* per diem	109	10	—
Earl of Dorset, for Keepers of Greenwich Park	100	—	—
Mrs. Elliot, House-keeper at Newmarket	200	—	—
Robert Ford, House-keeper there	36	10	—
Henry Villiers esquire, Keeper of the Tennis-Court	132	3	4
John Branch, Keeper of Battle's Walk	50	—	—
William Clark, Keeper of Bagshot-Rails	30	—	—
Under Keepers of St. James's Park	60	—	—

times had not wholly abandoned their modesty, how much soever they had tarnished their virtue. Even bishop Burnet admits, 'That many 'were the more sharpened against Guy, be-'cause it was believed that he, as well as 'Trevor, the Speaker, was deeply concerned in 'corrupting the Members of the House of Com-'mons." But then he takes care to insinuate, that he learned his trade in the two preceding reigns, by adding, 'That he had held his 'place both in king Charles and king James's 'time; and the share he had in the secret Dis-'tribution of Money, had made him a neces-'sary man for those methods.' But, whether he was most obnoxious for his present or past corruptions, or because he was in the way of the present corruptors, the Commons followed their blow, and importuned the king, by Address, to remove him from his place, which it does not appear that he made any difficulty to comply with." Ralph.

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Michael Studholme, Keeper of the Roads, about	97	6	8
Simon De Brienne, House-keeper at Kensington	300	—	—
Richard Bentley, Library-keeper	200	—	—
Peter Guignon Beaubisson, Keeper of the Bows	58	5	—
Ditto, as Keeper of the private Armoury	100	—	—
Rudolph Kein, Closet keeper	200	—	—
Richard Welbeck, Stable-keeper at Reading	12	3	4
Keeper of the Parliament House	9	2	6
Sir Joseph Williamson, Keeper of the Paper-Office	160	—	—
Sir Chr. Wren, Surveyor of the Works	45	12	6
William Talman, Comptroller	27	7	6
Thomas Lloyd, Paymaster	56	10	—
Master Mason and Master Carpenter, each 18*l.* 5*s.*	36	10	—
Purveyor of the Works	12	3	4
William Dickenson, Clerk, Ingrosser of the Works	66	13	4
To William Ireland, Master Glazier	19	19	—
To Charles Atherton, Serjeant Plumber	18	5	—
Alexander Fort, Master Joiner	52	12	6
Master Bricklayer and Master Plasterer, each 18*l.* 5*s.*	36	10	—
Master Carver	27	7	6
Matth. Roberts, Plumber at Windsor	18	5	—
John Norris, Joiner of the Privy-Chamber	19	11	8
Earl of Abington, Justice in Eyre, Trent South	166	13	4
Earl of Portland, Superintendant of the Gardens	200	—	—
Monsieur Averquerc, Master of the Horse	66	13	4
Duke of Devon, Chief Justice in Eyre, Trent North	100	—	—
Mr. Simon Harcourt, Secondary of the Crown Office	50	—	—
Henry Harris, Graver of the Seals and Arms	50	—	—
Ditto, as Yeoman of the Revels	9	2	6
Charles Killigrew, as Master of the Revels	10	—	—
Apothecary of the Houshold	53	6	8
Master of the Barges	30	—	—
Clerk of the Fines	20	—	—
Wardrobe-keeper at Westminster	32	5	—
Walter Laycock, Surveyor of the Woods, Trent North	50	—	—
Philip Riley, the like, Trent South	50	—	—
Sir Tho. Pinfold, Judge Advocate	20	—	—
Officers of Waltham Forest	233	10	—
Mr. Goddard, Governor of Bermudas	240	—	—
John, Philip, and Joseph, Rotiers, Gravers of the Mint, 150*l.* each	450	—	—
Knight Harbinger	195	16	8
Christ. Tankred, Master of the Harriers	500	—	—
Tho. Pullen, Master of the Studs	200	—	—
Tho. Felton, Master of the Hawks	1,372	10	—
Mr. Tate, Poet Laureat	100	—	—
Mr. Rymer, Historiographer	200	—	—
Mr. Jodrell, Clerk of the House of Commons	10	—	—
Vice-Chamberlain of the Houshold	600	—	—
Five Lords Commissioners of the Treasury	8,000	—	—
Four Agents for Taxes, their Clerks and Messengers	880	—	—
Two Auditors of Imprests, each 666*l.* 13*s.* 4*d.*	133	6	8
John Shales, Auditor	200	—	—
Robert Russel, Clerk of the Pipe	107	4	2
William Whitacre, Foreign Opposer	40	—	—
John Talure, a Secondary	30	13	4
Arnold Squib, Clerk of the Nichils	20	—	—
Secondaries in the Pipe-Office	20	—	—
Wm. East, Clerk of the Estreats in the Common-Pleas	20	—	—
Sir John Osborne, Treasurer's Remembrancer	64	2	1
John Hastings, Clerk of Foreign Estreats	96	13	4
Thomas Marryot, Clerk of the Pleas	5	—	—
John Pottinger, Comptroller of the Pipe	40	—	—
Mr. Blackwell, Secondary of the Treasurer's Remembrancer	5	—	—
Andr. Lawrence, late Surveyor of the Ways	36	10	—
John Tompson, Solicitor for Taxes	200	—	—
Conservator and Keepers of Dean Forest	210	—	—
Aaron Smith, Solicitor for Lawsuits, &c.	200	—	—
Mr. Burridge, Riding Surveyor in New Forest	9	2	6
Total	55,134	—	3

Mem. The Termly and other Allowances of the Officers of the Receipt do amount to about 1,800*l.* per ann. more.

An ACCOUNT of what hath been paid at the Receipt of the Exchequer, within the Three Years ended at Michaelmas 1694, for their Majesties Bounty.

	£.	s.	d.
In the Year ended at Michaelmas 1692	25,189	16	6
In the Year ended at Michaelmas 1693	33,140	16	1½
In the year ended at Michaelmas 1694	29,714	6	11½
	88,044	19	6½

And for Contingencies; viz.

RENTS for Lands, Allowances, and Incidents to the Commissioners of Accounts, Removes of Prisoners, Discounts, Law-Charges, Liberates of the Exchequer, Presents to Indian Princes, Messengers Bills, Receivers Rewards, Charges on Loans, extraordinary Services and Expences, Printers Bills, Rewards for taking Highwaymen, Surplusages of Accounts, &c.

	£.	s.	d.
In the Year ended at Michaelmas 1692	32,026	5	1½
In the Year ended at Michaelmas 1693	42,045	4	8½
In the Year ended at Michaelmas 1694	39,987	19	3½
	114,059	9	1½

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Ordered, That the consideration of the said Accounts be referred to the Committee of the whole house, to whom it is referred to consider further of Ways and Means for raising the Supply, for carrying on the War against France with vigour.

Resolutions respecting Fees, Salaries, and Pensions.] Feb. 22. Sir Thomas Littleton reported from the said committee, That they had proceeded upon the Charge of the Civil List from Michaelmas 1693, to Michaelmas 1694; the consideration whereof was referred to them; and had come to several Resolutions thereupon; which they had directed him to report to the house: viz.

Resolved, 1. That it is the opinion of this Committee, That the Charge of the Cofferer's Office for Ordinaries and Extraordinaries, be a sum not exceeding 90,000*l.* per Annum. 2. The Treasurer of the Chamber's office be 30,000*l.* 3. The great Wardrobe not 12,000*l.* 4. The Office of the Robes 4,000*l.* 5. The Office of the Works be 6,000*l.* 6. The Gardens 2,000*l.* 7. The Office of the Stables, on settled Allowances, 8,376*l.* 7*s.* 6*d.* 8. The Office of the Stables, during the War, 10,000*l.* 9. Foreign Ministers, for Ordinaries and Extraordinaries, 30,676*l.* 7*s.* 7*d.* 10. Bounty money 20,000*l.* 11. Persons on Fees and Salaries, payable at the Exchequer, over and above what is paid to the Officers of the Customs, Excise, Post-Office, &c. or by the Receivers thereof, 50,000*l.* 12. That all Pensions or Annuities, charged as part of the Civil List, above the Sum of 200*l.* per Ann. except the Charity of 350*l.* 10*s.* per Ann. to Christ's Hospital, be suspended during the War. 13. That all other Pensions and Annuities, payable out of any Branches of the Revenue, except as aforesaid, be suspended during the War. 14. The Band of Pensioners, 6,000*l.* 15. The Queen Dowager 12,000*l.* 16. The Prince and Princess of Denmark, 50,000*l.* 17. Secret Services, 10,000*l.* 18. Privy Purse, during the War, 30,000*l.* 19. Plate and Jewels, 4,000l. 20. Contingencies, Liberates for the Exchequer, Printers Bills, Messengers Bills of the Court and Receipt of the Exchequer, Incidents to Commissioners of Accounts, Law-Charges, Surplusages of Accounts, Rewards for apprehending Highway-men, Receivers Rewards, &c. 40,000*l.* 21. Payment of her late Majesty's Servants, and Debts, for the year 1695, 50,000*l.*"

The first 12 of the said Resolutions, being severally read a second time, were agreed unto by the house.

The 13th Resolution being read a second time; an Amendment was proposed to be made, by adding 'and that no other Pension already granted, or to be granted, shall be paid during the War:' and the same was, upon the question put thereupon, agreed unto by the house.

Resolved, "That the house do agree with the Committee in the said Resolution, so amended, That all other Pensions and Annuities, payable out of any Branches of the Revenue, except as aforesaid, be suspended during the War; and that no other Pension already granted, or to be granted, shall be paid during the War."

The rest of the said Resolutions, being severally read a second time, were agreed to by the house.

Representation of the Commons to the King, on the Abuses and ill Practices of Agents, &c.] Feb. 26. Mr. Gwyn reported from the Committee appointed to prepare an humble Representation to be made to his majesty, that they had prepared the same accordingly: which they had directed him to report to the house; which he read in his place; and afterwards delivered in at the clerk's table: where the same was read. And the question being put, That the said Representation be re-committed; the house divided: Yeas 83, Noes 168. So it passed in the negative. Then the house proceeded upon the same, paragraph by paragraph: and some amendments were made to the same by the house.

And then the same was read, and agreed unto by the house; as followeth; viz.

"We, your majesty's most dutiful and loyal subjects, the commons, in this present parliament assembled, do, from a true and unfeigned zeal for your majesty's person and government, which God long preserve: and from the obligation that lieth upon us, in behalf of those whom we represent, most humbly lay before your majesty the Grievance we lie under, by some of the Officers and Soldiers of the Army, in raising money upon the country, under pretence of Subsistence; which is such a violation of the liberty and property of your subjects, that it needeth no aggravation.—This is, in great measure, occasioned by the undue Practices of some of the Agents and Officers; the particulars of which we beg leave to lay before your majesty, in order to the more effectual preventing the like miscarriages for the future. 1. Some of the Agents amongst other their ill practises, have detained the Money due to the soldiers in their hands, and made use of it for their own advantage, instead of immediately applying it to the subsistence of the Officers and Soldiers, for whom they were intrusted. 2. Their intolerable Exactions, and great extortions, upon the officers and soldiers, for paying money by way of advance; their charging more for the discount of tallies, than they actually paid: by which fraudulent imposing upon those who serve in your majesty's armies, it appeareth, That notwithstanding they have a greater pay than is given in any other part of the world, they are yet reduced to inconveniencies and extremities, which ought not to be put upon those who venture their lives for the honour and safety of the nation. 3. In particular, col. Hastings hath compelled some officers of his regiment to take their cloaths from him at extravagant rates, by confining and threatening those who would not comply therewith: by which the authority that may be necessary to be lodged in the colonel, over the inferior offi-

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cers, in some cases, is misapplied, and extended so as to promote a private advantage of his own, without any regard to your majesty's service, or to the discipline of the Army. 4. Col. Hastings's agent hath presumed fraudulently to detain 500 guineas, out of a bounty given by your majesty to the officers of that regiment, under pretence of giving them as a bribe to obtain the same; to the dishonour of your majesty, and injury to the officers thereof: and hath taken 2*d.* per pound out of the Money due to the Officers and Soldiers; for which deduction, there being no warrant, the colonel, whose servant the agent is, is answerable. 5. Col. Hastings's Agent hath refused, or neglected to give an Account of the pay due to the Captains of his regiment, and their companies; which tends apparently to the defrauding the Officers and Soldiers. 6. Some of the Agents assume to themselves the liberty of making great Deductions; which, since they know not how to justify, they endeavour to cover, by putting them under the shelter of the uncertain head of Contingencies; which giveth them the better opportunity of hiding the frauds and abuses that would otherwise be more liable to be detected. 7. Col. Hastings hath discharged an ensign, by putting another into his room, contrary to the true discipline of an Army; from which the colonels have no right to exempt themselves, to inlarge their own authority, to the prejudice of your majesty's service, and of the officers who serve under them. 8. Col. Hastings hath taken money for the recommending to commands in his regiment, to the great discouragement of the officers, who are to serve in your majesty's armies; who ought to be such as deserve their commands, and not such as pay for them.—These things we most humbly represent to your majesty, in confidence of having them redressed by your majesty's justice and wisdom.—Your loyal commons, as they have been always ready to supply your majesty, cannot but be sensible of such Miscarriages, as may either diminish the strength of your armies, or the affections of your people: and it is from a principle of the highest duty, that we take this way of applying ourselves to your majesty for redress; having an intire assurance, That this our most humble Representation will not only be graciously accepted; but that our expectations from it will be fully answered."

The King's Answer.] March 6. To this his majesty was pleased to reply:

"Gentlemen; I will consider your Representation, and take all care possible to have the Grievances redressed."*

Craggs, an Army Clothier, refuses to produce his Books.] March 6. Mr. Foley acquainted the house, That, in proceeding upon the Accounts of Mr. Pauncefort, they conceived it necessary to send their precept to Mr. James Craggs, one of the Clothiers of the Army, to attend them this morning, and bring with him the Books of Account kept for himself and partners, in relation to the Cloathing; which he did not obey; but sent an Answer to the said Commissioners, in writing, excusing the same; which Mr. Foley presented to the house; and delivered in at the clerk's table: where the same was read, as followeth:

The ANSWER of Mr. James Craggs to the Precept of the honourable the Commissioners for putting in execution the Act, intituled, An Act for appointing and enabling Commissioners to examine, take, and state, the public Accounts of the Kingdom; dated at York-buildings, the 4th of March 1694.

"The said James Craggs humbly answereth, and saith, That he is not any way a public receiver, agent, or officer, relating to any part of the revenue of the crown; but hath only dealt and traded in partnership, with divers other merchants and dealers, in buying and selling many sorts of goods; and particularly, he and his partners have sold cloathing to several colonels of the army; and have not received any part of their money, but from the said colonels, or their orders, to whom they sold their goods.—And as to that part of the foresaid Precept, which requires him to attend upon the honourable Commissioners, for stating the public Accounts of the kingdom, on the 6th inst. with all the Books of Accounts, any ways relating to the Cloathing of the Army, by him, or any person or persons concerned by or with him, for the years 1692, and 1693; the said James Craggs humbly saith, That in the said Books are contained, and intermixed, the Accounts of such sums of money as he and his said partners do owe unto clothiers, and other their creditors, of whom they bought goods so sold to the colonels,

* "And so far he had already thought fit to interpose, that on the 19th of Feb. he had been pleased to order in Council, That the chief Officers of the Army should meet twice a week, to receive and examine all Informations and Complaints that should be brought before them, against any officer or soldier in his majesty's pay, in order to redress the same. It is true, this kind of remedy, though countenanced by the Privy-Council, was not authorised by the Constitution; and according to the very nature of things, it was not over-reasonable to imagine, that the injured would take their case out of the house of commons, in order to put their trust in the equity of a military court. But his majesty, moreover, made an instant example of col. Hastings, by cashiering him, and giving his regiment to sir John Jacob, his Lieut. Colonel: and on the 11th of March following caused a Declaration to be issued for the strict Discipline of the Army, and due Payment of Quarters; charging and commanding all officers and soldiers, not to exact or demand any Subsistence-Money, or to commit any spoil or disorder, or to use any violence or threatening words, or otherwise to misbehave themselves, under pain of being cashiered, and losing their pay." Ralph.

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and others: and, if he shall be forced to produce the said Books, the example and consequence thereof may draw all other merchants and traders into the like examinations and discovery, who, at any time within six years last past, have sold any goods for the use of the Army or Navy, or any other part of the government; and thereby lay open the weakness of their estates and substance; which may expose them to the immediate demands and prosecutions of their creditors, to their certain ruin; and will tend to the general discouragement of all trade and dealing with the government.—For which reasons he humbly craves leave to offer, That by the law, and true intent of the said Act, he ought not to be compelled to produce the said Books, they containing not a public, but a private Account. James Craggs."

Ordered, That the said Mr. James Craggs be summoned to attend this house immediately.

Ordered, That a Bill be brought in for the taking and stating the Public Accounts for the year 1695.

March 7. The house being acquainted by Mr. Gee, a member thereof, That he had received information by one Mrs. Shorter, and Mrs. Bourman, that a member of this house had received Money for the carrying on a Bill in this house; Ordered, That the said Mrs. Shorter, and Mrs. Bourman, be summoned to attend this house to-morrow morning.

Ordered, That a Committee be appointed to inspect the Books of the East India Company immediately: Also, That the same Committee have power to inspect the Chamberlain of London's Books: and that they have likewise power to send for persons and papers.

Craggs sent to the Tower.] Mr. James Craggs attending, according to order, was called in: and his Answer to the Commissioners for taking and stating the public Accounts being read, he owned the same: and it being demanded, whether he would produce his Books, and be examined before the said Commissioners, upon oath, touching his Accounts; he excused; and refused to produce his said Books: and being acquainted by Mr. Speaker, That if he persisted in his refusal, the house would proceed with all rigour and severity against him; and being withdrawn, a motion was made, and the question being proposed, That Mr. James Craggs, one of the Contractors for the Cloathing of the Army, for refusing to produce his Books of Accounts, thereby obstructing the Inquiry of this house into the disposal of the public Monies, be committed prisoner to the Tower of London; It was resolved in the affirmative.

Commissioners of the Hackney Coaches corrupted.] Amidst the cry of Bribery and Corruption, there was a Petition to the house of commons, of Thomas Kemp and others, on behalf of themselves and others, the ancient 400 licensed Hackney-Coach men; which being referred to a Committee, it was their opinion, That the Petitioners the Hackney-Coach-men, had proved the substance of their Complaint, and were worthy the consideration and relief of the house: and that several of the Commissioners for licensing and regulating Hackney-coaches, and Stage-coaches, had, by receiving Bribes, and by other undue means, acted corruptly and arbitrarily, contrary to the authority and trust reposed in them by act of parliament. Thereupon the house ordered the Committee to distinguish the Commissioners, which they accordingly did; and by their report on March 20, Henry Ashurst and Walter Overbury, esquires, were honourably cleared, and the others were declared guilty: and an humble Address was made to his majesty, that he would remove Henry Killegrew, Henry Villers, and Richard Gea, esqrs. from the Commission for licensing Hackney-coaches; and they were accordingly removed.

Report of Corruptions in the East India Company's Affair.] March 20. Mr. Foley reported, from the Committee, who were appointed to inspect the Books of the East-India Company, and also the Books of the Chamberlain of London, the several matters, as they appeared to the committee, as follow;

"As to the East India-Company: That the committee, as soon as they came to the East-India house, understood, some clerks of the Company, by order, had lately taken out of their Books an Account of all Money paid for the special Service of the Company, beginning in the Year 1688.; which the committee called for: the Abstract of which is as followeth: Paid in cash for the Company's special Service.

	£.	s.	d.
In the Year 1688 - - - - -	1,284	13	6
1689 - - - - -	2,096	2	2
1690 - - - - -	3,056	3	3
1691 - - - - -	11,372	15	0
1692 - - - - -	4,059	15	4
1693 - - - - -	80,468	16	8
1694 - - - - -	4,075	6	3
	107,013	12	7

"Upon which the Committee observing, That the greatest payment was in the year 1693; they searched for the Orders for the issuing of that Money; the chief of which were,

"One dated the 13th of April 1693; at a 'Court of Committee, in the words following: 'The Governor, this day acquainting the Court 'with what proceedings had been made in their 'affairs, towards granting a new Charter; and 'with what had been disbursed by him in pro-'secution thereof; the Court approved of the 'said Charges; and ordered a warrant to be 'made out for the same; returned him thanks 'for his great care, pains, and trouble, in their 'service; and desired him to proceed in the 'perfecting thereof.'

"Another was dated the 24th of Nov. 1693, at a Court of Committee, held the same day; viz. 'The governor, this day making a Representa-'tion of what sums of Money had been by him 'disbursed in the management and carrying on 'of the Company's Affairs, for their service; 'the Court approved thereof; and ordered,

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'That a warrant be made out for making the 'same paid in cash accordingly; giving him 'their thanks for his great care and pains taken 'therein.'

"Another was at a Court of Committee, the 22nd of Jan. 1693-4; viz. 'It being represented 'to the Court, That in the further prosecution 'of the Company's Affairs, and in order to their 'settlement, there has been several sums of Mo-'ney disbursed, amounting to 30,000*l.* in the 'whole; the particulars whereof are now laid 'before them, and consideration thereof had; 'it is ordered, That the said Money be made 'paid in cash; and that a warrant be made out 'accordingly.'

"That the Committee find, by examination of most of the persons present at the aforesaid committees, That the Governor, in the said committees, did only in general inform, what sums he had disbursed, without naming the particulars, to whom, or for what service; which, several of them said, was a new course, since sir Tho. Cook came to be Deputy-Governor, or Governor, but at all times; before he was concerned, the particulars of all Sums, for the special service of the Company, were declared.

"Further, the Committee found, That in pursuance of the first Order, dated the 19th of April 1693, 22,275*l.* was paid out of Cash, in pursuance of that Order; and 24,983*l.* in pursuance of the next Order, the 24th of Nov. 1693; and 30,000*l.* in pursuance of the last Order of the 22nd of Jan. 1693; amounting in all to 77,258*l.*; besides several smaller sums, amounting, in the whole, to 10,144*l.* 12*s.* 3*d.*; which, with the former sum, makes 87,402*l.* 12*s.* 3*d.* all issued whilst sir Tho. Cook was Governor, and Francis Tyson, esq. Deputy-Governor, for the special Service of the Company.

"Besides those Warrants, the Committee found what was called a previous Order: A copy of which is as follows: 'At a Court held 'the 24th of Nov. 1693; sir Thomas Cook Go-'vernor: Francis Tyson esq. Deputy-Governor: 'It is ordered, That the Cashier-general do, from 'time to time, make payment of such sums of 'money, for carrying on the Company's Service, 'as the Governor shall direct, pursuant to the 'sense of the present debate.'

"By virtue of which, the Governor received several sums between that and the 22nd of Jan. following; at which time, he declared, he had disbursed 30,000*l.*; and had an Order then for placing the same to Account; as is before observed.—The like previous Order was alleged to be made before the other Warrants for the 22,275*l.* and 24,983*l.*; but the Committee had not time to inspect the same.

"That the Committee understood, That, at a Court held the 20th of Dec. 1694, several Members were impowered to meet, and consider the matters to them referred, by Order of the 14th Nov. 1694; who, in pursuance thereof, had drawn up a State of the Company's Cash, to be presented to the Company, dated at the East-India House the 7th March 1694; In which State near all the aforesaid sums were observed to be paid, and placed to the Company's Account of Charges-general paid out of Cash; viz. In 1688 and 1689 sir Ben. Bathurst Governor, and sir Josiah Child Deputy-Governor, 2,230*l.* 14*s.* In 1690 and 1691, sir Jos. Hern Governor, sir Tho. Cook Deputy-Governor, 13,532*l.* 9*s.* 2*d.* In 1692 and 1693, sir Tho. Cook Governor, Mr. Tyson Deputy, 87,402*l.* 12*s.* 3*d.* In the whole 103,165*l.* 15*s.* 5*d.*

"Of the disposal of which Money, the committee say, They have been able to obtain no further Account, than that the same is made paid in the Company's Books, in general terms, for special service; and that a great part thereof was, as they are informed, put into the hands of sir Bazil Firebrace: and the most material Orders of Court, that appeared to them, to relate to the greatest sums, were those of the 13th April 1693; the 24th Nov. 1693; and the 22d Jan. 1693-4; before observed.

"In the said State, drawn by the said Committees, they observe, That, upon examination of the Company's Cash-Book, they found the Balance, 31st Oct. 1694, was 124,249*l.* 15*s.* 10*d.* They demanded of Mr. Portmans, the cashier, if he had the same in cash? He replied, he had not: but, instead thereof, laid before them, in writing, on the 22nd Nov. 1694, That 90,000*l.* was lent upon sir Thomas Cook's notes; with other particulars, which make up the abovementioned balance. For which 90,000*l.* Mr. Portmans produced the then governor sir Tho. Cook's note, *in hæc verba*: 'Received, the '10th Jan. 169¾ for account of the East-India 'company, 90,000*l.* which I have disbursed and 'paid, for 99,197*l.* stock in the E. I. Company, 'for their account: which I promise to be ac-'countable, for account of the E. I. Company; 'and was by order of court of the 24th Nov. '1693.'

"The said Committee do observe, That they do not find any Warrant for the said sum, or any of that Stock transferred in the Company's Books for their Account, excepting 18,300*l.* Stock, the 16th Jan. last.

"The Committees of the East-India Company, besides the State above of Cash, did draw up another State of Contracts: In which they say, They found a Contract, bearing date the 26th Feb. 1693, for 200 ton of Saltpetre, to be brought home in the ship Seymour, from India, to pay the sum of 12,000*l.* for the same, and 25*l.* freight per ton to the owners of the ship, besides all charges here: 2000*l.* part of the said 12,000*l.* was the sum sent out to purchase the said Saltpetre, is actually paid out of the Company's Cash; and a bond for the remaining 10,000*l.* is given under the seal of the Company, payable the 31st March next; viz. 1695; whether the ship arrive in safety or not; with this limitation only, That if 200 ton of Petre was not laden upon the said ship, then to pay in proportion to the want thereof: so that the result of this contract is, The Company runs the adventure of 12,000*l.* for that which cost only 2,000*l.*; and must consequently lose

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12,000*l.* if the ship miscarry; and, on the contrary, the seller, on the other hand, gets 10,000*l.* clear, without disbursing, or running the hazard of, one penny: and what is yet more, a certain loss of 9, or 10,000*l.* will attend, if the ship arrive in safety.

"That the Committee examining the Members of the Company, concerning this State, they own the contract to be true; that the 2,000*l.* was paid; and the bond given to Mr. Thomas Colston.—About the same time this contract was made, it appeared to this Committee, That so many of the Interlopers as would sell their shares, they had in the Interlopers, to the East India Company, were allowed their first cost, and 25*l.* per cent. advance: which was done by giving them credit for so much in the East-India books.

"That the Committee finds, sir Samuel Dashwood, sir John Fleet, John Perry esq., sir Joseph Herne, sir Tho. Cook, are mentioned to be present at the court of committees, when the Orders above recited were made; But, they being all Members of this house, the Committee did not think fit to send for them, in order to their Examination.

"And, upon the whole matter, it appeared to the Committee, That the money issued during the time of sir Joseph Herne, and sir Tho. Cook's government, was disposed of by them for private service; which they have caused to be placed to the Company's account, under the head of Charges-general; of which, the rest of the Committees, who were present at the debate, and making those orders, most of them, except the members of this house, have been examined by the Committee, are not able to give any Account.

"But one of them; viz. sir Benj. Bathurst, said, sir Joseph Herne had the greatest part of the 13,533*l.* 9*s.* 2*d.* to dispose of: And sir Benj. Bathurst would have called for an account thereof; but sir Tho. Cook desired he would not: and the Committee of nine, who was to inspect the whole matter, have often called upon sir Tho. Cook to give an Account to whom he has distributed the money he received; to whom he sometimes promised to give an account; but never did: and at another time said, it was not convenient for them to have it; so that the secret of that service, and the placing of that money, lies principally with sir Tho. Cook and sir Jos. Herne.

"Sir Benj. Bathurst being examined, he said, That, finding so great a Sum as 30,000*l.* charged for Secret Services, he had some warm discourse with sir Tho. Cook about it, to know how it was disbursed: but he refused to give him any particulars; and told him, He should remember he was bound, by his oath to the Company, to keep their secrets: To which he answered, He was also bound by oath to be true to the interest of the Company.—Sir Benj. Bathurst further said, That, about April 1694, understanding they were in want of money, he looked into the Cash-Book, which casting up, he found a considerable sum in Cash; and, taking some persons with him discoursed sir Tho. Cook thereof; who said, The 90,000*l.* he had received was to gratify some persons, in case the Bill should pass.—Sir Benj. says, sir Tho. Cook, and sir Bazil Firebrace, made the bargain about Saltpetre; but he knew nothing of it till he came into Court.

"Sir Bazil Firebrace being examined, owned, He had received upward of 16,000*l.*; of which he has given an Account to the Company; which was for buying shares of stock; and of which the Company had allowed: but said, He knew no ground the committee of nine had to say, That a great part of the other sums were put into his hands.—He owns, he invited several persons to come into the Company; and offered to lay down money for several, and that if they liked it not at the year's end, he would then take it off their hands; and to Members of the house of commons, among others; and gave an Account to the Company of his doing so; who promised to indemnify him.

"Concerning the Accommodation with the Interlopers; the Company had a letter, from the lord Nottingham, that it was the king's pleasure, that they should come to an agreement with the Interlopers; the proposal to whom was, 25*l.* per cent. for bringing in their stock to the Company, and one half of the profit besides; which about one half of the Interlopers accepted; But Mr. Godfrey, and some others, standing upon 30 per cent. Mr. Colston went off with them, and did not come into the Company.

"Mr. Ward said, It was agreed by the Interlopers, That only 2,000*l.* should be employed in buying of saltpetre; and Mr. Colston was to have the advantage thereof, which, he believes, was not for Mr. Colston himself, but for some other gentlemen: and the original inducement to the leave of the Interlopers going out was, that agreement with Mr. Colston."

Report of corrupt Practices in the procuring the passing of the Orphan's Bill.] The same committee reported, "That having inspected the Chamberlain of London's books, they found an Order of the Common-Council, dated the 24th of Jan. 1693, which nominated and appointed sir Tho. Stamp, sir Fr. Child, sir J. Houblon, and sir Wm. Hedges, knights and aldermen; sir Henry Furnace, Mr. Deputy Ayres, Mr. Gilbert Heathcot, Mr. John Johnson, col. Tho. Cuthbert, Mr. Tho. Cudden, Mr. John Harvey, Mr. Daniel Dorville, commoners; or any two of the said aldermen, and four of the said commoners, to be a committee, to consider of ways and means for satisfying the Debts due to the Orphans of this city; and to solicit the parliament for a Bill for that purpose: In which it is ordered, 'That Mr. Chamberlain do, from time to time, issue out and pay all such sums of money as are required by, and necessary for, the said committee for promoting the said service; and the members who serve for this city in parliament, are desired to be assisting to the said committee, as

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there shall be occasion; and Mr. Borret, the city Solicitor, is to attend the said committee.'

"That the Committee found an Order, made by the said committee, dated the 12th Feb. 1693, reciting the said Order of Common-council; and ordering, 'That Mr. Chamberlain do pay to the hon. sir John Trevor, knight, Speaker of the hon. house of commons, the sum of 1,000 guineas, so soon as a Bill be passed into an act of parliament, for satisfying the Debts of the Orphans, and other creditors of the said city:' which Order was subscribed by all the said committee appointed by common-council, except sir James Houblon and Mr. Deputy Ayres: And on the back of the said Order was this indorsement; viz. 'The 'within-mentioned 1,000 guineas were deliver-'ed, and paid, unto the hon. sir John Trevor, 'this 22nd June, 1694, in the presence of sir 'Robert Clayton, sir James Houblon; which, 'at 22*s.* exchange, comes to 1,100*l.*'

"In the Chamberlain's Account of Cash, the entry is thus; 'Paid, the 22nd June, 1694, 'by order of the Committee appointed by 'order of Common-council, to consider of 'ways and means for satisfying the Debts due 'to the Orphans, and other creditors of the 'city; and to solicit the parliament for a Bill 'to that purpose; dated the 12th Feb. last; '1,000 guineas; being paid to the hon. sir 'John Trevor, knt. Speaker of the hon. house 'of commons, pursuant to the said Order; 'which, at 22*s.* exchange, is 1,100*l.*'

"That the Committee understood, sir Robert Clayton was ill, and out of town. They sent for, and examined, sir James Houblon, who said, 'He refused to sign the Order of the Committee, of the 12th Feb. not approving thereof: And, being offered a second time, he refused it again; and abhorred it: But that sir Robert Clayton did, on the 22nd June, 1694, send for him to come to him; who accordingly, imagining it was only to meet some aldermen, went to him; where he found the Chamberlain: And, at sir Robert's desire, they went together to the Speaker, to give him thanks for his pains about the Orphans Bill; and, as soon as sir Robert and he had passed a compliment on the Speaker, the Chamberlain pulled out a note or bill, which he delivered the Speaker; which the Speaker took; and presently they all took their leave of him, and came away:'—Sir James Houblon saith, 'He did not know the contents of the bill; but the Chamberlain said, It was for 1,100*l.*; and that, within two or three days afterwards, the Speaker sent for the money, and had it accordingly; but he placed it to account, according to the day he delivered the bill; which was the 22nd of June.'

"That the Committee observed, That the Order of the Committee of the Common-council, which now stands dated the 12th Feb. was at first dated the 13th Feb.; and that the person named therein was put in by a different hand: And, examining who first wrote the warrant, Mr. Borret owned it was his handwriting: And at first said, That he believed the blank at first left therein, was filled up with the Speaker's name, before the committee signed it; because he believed they would not set their hands to a blank: But all the committee who signed it, who appeared upon summons, declaring, most of them positively, That there was a blank for the person's name, when they signed it; and the rest being doubtful; Mr. Borret afterwards said, The blank might be filled up afterwards; but he could not tell the time: Mr. Borret owned, he filled up the blank with another pen.—Sir Tho. Stamp was out of town; and sir Henry Furnace was sick: the rest appeared before the Committee.

"Sir Francis Child, on his Examination, owned, 'He had subscribed the Paper of the 12th of Feb. as one of the Committee: But saith, He did not attend the Committee, nor sir Robert Clayton when he attended the Speaker; and could give little account of this matter.'

"Sir Wm. Hedges owned his hand to the Order of the Committee; and that he was at the Committee who agreed this matter: He saith, Mr. Borret, as he thinks, was the person who told the Committee the Bill could not pass, without giving that sum; and though the order was drawn with a blank, yet the discourse at the Committee was, That the Speaker was the person to whom the sum was to be given: he knew nothing of the Speaker's being acquainted therewith.

"Mr. Daniel Dorville owned, He had subscribed the Order of the Committee: He saith, That he attending in the lobby, at the house of commons, upon account of the Orphans, Mr. George Finch, merchant, told him, That if there were not some guineas given, that Bill would not go on; and said, 2,000 guineas was necessary to give him, meaning the Speaker, as he understood: And that Mr. Borret likewise declared his opinion, That money must be given; and, he believeth, Mr. Borret was the first that moved it in the committee, and named the sum: but after the Committee had agreed thereunto, the Bill going on, Mr. Finch asked, What they had given? Which Mr. Dorville refused to tell him; but he believes, and understood, that, before the bill passed, or any thing material was done in it, the Speaker had notice of the said Order of the Committee, and approved thereof; but knows not whether by Mr. Borret's means, or by what other hand.

"Mr. Thomas Cuddon owned his signing of the Order of the Committee: he saith, The first rise of this matter was, that, having prosecuted a Bill for this purpose, in former sessions, for a long time, without effect, the Committee thought it proper to give this sum to the Speaker, for leave for the Bill to be brought in; and it was signed by the Committee, before the bill was carried into the house; and believes, that the purport of this Order was imparted to the Speaker, before the bill was carried into the house: And further saith, That Mr. Dowse, and Mr. Shepherd, and, he thinks, Mr.

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Geo. Finch, persons soliciting for the Orphans, told him, it would cost them as much as it would cost the city.

"Mr. John Harvey owned the signing of the Order; and that in the Committee there was a discourse of several sums to be given, to procure the Bill to pass; some naming 500, others, 1,000, some 2,000 guineas: but he doth not remember any person to be named to receive the same.—Mr. John Johnson gave the like testimony.—Mr. Gilbert Heathcot said, he was not present at any meeting of the Committee; but that he was the last person that subscribed the order; which he did by the example of those who subscribed before him.—Col. Thomas Cuthbert owned his subscribing the Order; and that he was present at the Committee, where it was agreed to give 1,000 guineas; but knoweth not the rise or occasion of it, other than the clamour of the Orphans, that the city were close-handed, and thereby had done them no good; which, he believes, was the reason why the city did consent to give 1,000 guineas.—Mr. Borret, being examined, owned, He had in the Committee given his opinion, That 1,000 guineas should be given to the Speaker: he saith, after the Order was signed, it was kept in his hands for a month, or six weeks, and then delivered back by him to the Committee. Being asked of his belief, whether the Speaker knew of this order before the Bill passed? he saith, He doth believe he did know of it; for he, to satisfy the clamour of the Orphans, had told their agent; who, he believes, had easy access to the Speaker; but that, from the time of signing, to the time of his examination, he had not been with the Speaker, nor sent to him.

"That the Committee found another Order of the Committee nominated by the Common-council, dated the 26th April, 1694, reciting the Order of Common-council, and ordering the Chamberlain to pay to Paul Jodrell esq. the sum of 100 guineas, for his pains and service in assisting to pass the Bill in parliament, for satisfying the Debts of the Orphans, and other creditors of the said city; which was subscribed by most of the members of the said Committee, together with sir James Houblon and deputy Ayres, who refused to sign the other Order of the 12th Feb.: on the back of which was the like Indorsement, 'That the 100 guineas were paid to Paul Jodrell, esq. the 22nd June, 1694, in the presence of sir Robert Clayton and sir James Houblon; and the payment thereof was entered in the Chamberlain's Book, the 22nd June, 1694, at 22*s.*; being 110*l.*' The members who subscribed that Order owned their hands, and said, it was after the Bill was passed.

"That the Committee found in the Chamberlain's Books the several payments following, to Mr. Borret, the City-Solicitor; viz. '1693. Jan. 5, 50*l.*, Feb. 26, 100*l.*, March 12, 50*l.*, 1694, April 7, 39*l.* 14*s.* May 5, 127*l.* 16*s.*' These sums were applied to defray the charge of drawing the Bill; making copies thereof; and of petitions and orders, with relation to the said Bill: amongst which payments they find; 'Feb. 19, Paid Mr. Solicitor-General, for his advice therein, 5 guineas: 21. Paid Mr. Harcourt, by order, 5 guineas. March 23, Paid Mr. Hungerford, chairman of the grand committee, for his pains and service, 20 guineas. Paid Mr. Jodrell, as by his bill, 60*l.* 9*s.* 6*d.*' Which Accounts were allowed by the said committee.

"That the Committee understood, That the Orphans, for the procuring of this Bill, had given bond to Mr. Smith and Mr. Ch. Nowis, to allow them 12*d.* in the pound, when the bill was passed, for their pains and charges in that matter: which contract being made void, in that bill, the court of aldermen were impowered to satisfy them their real expences: upon which they applied themselves to the court of aldermen: and got a Petition to be signed by many of the Orphans, That they were willing notwithstanding the act of parliament, they should be allowed 12*d.* in the pound: And the said Nowis and Smith brought in a Bill to the said committee, of their Charges, amounting to 3,457*l.* 10*s.*; but, as was alledged, they pretended to be a great deal more out of purse; by which argument they got subscriptions to the said Petition: in which Bill there is charged, 'Paid to Mr. Geo. Finch, for carrying on the Act, 1,650*l.*' And Mr. Dowse said, That Mr. Smith told him they were out of pocket great sums of money upon account of the Orphans bill: And, when he was solicited to subscribe the petition, for their having 12*d.* in the pound, he would have had them taken 6*d.*: to which they replied, It would not answer their expectation, for they had been out, in this matter, more than 10,000*l.*—Mr. Nowis and Mr. Smith, being examined here, did utterly deny, That they had given any money to any member of parliament, on the account of the said Bill, or knew of any to be given: but they were willing to get what they could; having taken a great deal of pains in long soliciting the same. They did say, That notwithstanding they charged 1,650*l.* to be paid Mr. George Finch, yet they had not paid him any money; but, having delivered up his bond for the 12*d.* in the pound, they valued his share of the Orphans Debt to amount to that sum.—Mr. George Finch, being examined, did deny to have received any thing from Mr. Nowis or Mr. Smith, or by their order: but saith, That he did apply himself to several of the Orphans for money, upon suggestion that there was obstructions to the bill, which must be removed by money: and that he did receive 100*l.* from Mr. John Chadwick: 100*l.* of Mrs. Harvey: 100*l.* of Mr. Scott; 50*l.* of Mr. Herne; and had a promise of 100*l.* from sir John Smith, which is not yet paid.—That the obstructions he meant was to take off those who petitioned against the duty laid, in the said Act, upon Wines: And, finding the parties concerned to be very many, he did not treat with them; but kept the money to his own use, because he had been at charges in this matter.—He did deny

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his paying any money to any member of parliament: but, wavering in his discourse, and being again asked, If he ever did distribute, or know of any money distributed, on account of the Orphans bill? said, It was a hard thing to be asked such questions: Which was all the Committee could get from him.

" Mr. John Chadwick, and Mr. Hern, proved the payment of the money to Mr. George Finch; but could give no account what he had done therewith. Mr. George Finch denying he received any more money than that from Mr. Chadwick, &c. amounting to 350*l.*; which, or part thereof, was paid in for his use, to Mr. Hornbys; and yet, being charged by Mr. Nowis, and Smith, with 1,650*l.* in their bills; though, on their examination by the Committee, they deny they had paid him any; they thought Mr. Hornby's books might clear this matter, they keeping Mr. Finch's account; and therefore sent for them.

" Mr. Nath. Hornby came, upon their summons, without the Books; and, being told, it was to determine a difficulty about Mr. Finch's receipts and payments, he absolutely refused to let the committee have a sight thereof; and said, He would not discover to any one whatever, what any person owed them; or what they owed any person; but, upon better thoughts, he did shew his Books; but nothing material appeared thereby to this matter.

" Mr. Chiswell, one of the company of the Light Office, informed your Committee, That the Company, having been out of purse 16 or 17,000*l.* applied themselves to the commons for a Bill to settle that matter; which miscarrying last session but one, serjeant Topham, who also was one of the company, told him, They must do as others did, and take another course, if they would have any success; and do as the East India company had done. Mr. Chiswell brought the Book of the Company to your Committee; who find entered therein the Orders following:

' Light Office, Jan. 17th, 1693-4. Ordered, ' That sir Tho. Millington, Dr. Hobbs, Mr. ' Rokeby, Mr. Topham, and Mr. Chiswell, or ' any three of them, manage our affairs in par- ' liament, by such methods as they shall think ' fit.—Light Office, Jan. 17th, 1693-4. Order- ' ed, That the Treasurer issue and pay all such ' monies as the said committee, or any three of ' them, shall order and direct, for the manage- ' ment of the said affair; which orders for such ' monies shall be a sufficient discharge to the ' treasurer for the same; and for which the said ' committee shall not be accountable.—Light ' Office, April 6th, 1694. Ordered, that a note ' for 440*l.* be taken, payable to bearer, and de- ' livered to Mr. Chiswell; which he is to pay ' away upon account of the act of parliament, ' in pursuance to an authority given by an order ' made the 17th Jan. last.—April 18th, 1694. ' That 23*l.* 13*s.* 4*d.* more be paid Mr. Chiswell, ' and others of the committee; which they are ' to pay away upon account of the act of parlia- ' ment, in pursuance to an authority given them ' by an order made the 17th of Jan. last.—April ' 10th, 1694. Paid by Mr. Fowle and Woot- ' ton; their note delivered to Mr. Chiswell, &c. ' in part of charges for the act of parliament ' (Vide Minute, April 6th, 1694.) 440*l.* Paid ' more to Mr. Chiswell, as per order, dated April ' 18th, 1694, 23*l.* 13*s.* 4*d.*'

" Mr. Chiswell said, Mr. Topham and Mr. Burton undertook the management of the affair of the Light Office; and Mr. Topham told him, The disposing of this money was, to engage some friends in the house of commons. Mr. Chiswell owned he had the Bills according to those orders; and he delivered them to Mr. Burton, who disposed them according to Mr. Topham's direction, as he believes; but he did not ask him to whom. Mr. Burton and Mr. Topham are both dead since."

The Speaker being charged with Corrupt Practices, absents himself from the House.] Resolved, " That sir John Trevor, Speaker of this house, receiving a gratuity of a thousand guineas, from the City of London, after passing of the Orphans Bill, is guilty of a high Crime and Misdemeanor."*

March 13. The members being met, between 11 and 12 o'clock, Mr. Serjeant came without the mace; and delivered to the Clerk, at the table, a Letter from sir John Trevor, Speaker; directed thus; ' To Mr Jodrell, Clerk to the honourable house of commons.' Which was opened, and read; and is as followeth:

' Mr. Jodrell; I desire you to present the ' inclosed to the house; and in that you will ' oblige, sir, your humble servant, J. TREVOR, ' Speaker. March 13th, 1694.'

Inclosed was another Letter, which also was read, as followeth: viz.

' Gentlemen; I did intend to have waited ' upon you this morning; but, after I was up, I ' was taken suddenly ill, with a violent colick: ' I hope to be in a condition of attending you ' to-morrow morning: in the mean time I de- ' sire you will be pleased to excuse my attend- ' ance. I am, with all duty, gentlemen, your ' most obedient humble servant, J. TREVOR, ' Speaker. March 13th, 1694.'

After the reading of the said Letters, many members spake; and some proposed to proceed to the Choice of a new Speaker immediately. Whereupon, former Precedents were called for, and read out of the Journals. But an objection was made, That there could be no debate until the mace be brought, and laid under the table; and that no question could be put until that be done: others being of opinion, That was not essential, notwithstanding a former precedent, it was not insisted upon. But

* At the end of the Journal of this day, the following entry is made, in the hand-writing of the Clerk; viz. " 2 Maii, 1695. Mr. Harley delivered to me this day's proceedings, and also the 14th and 15th of March, in relation to the Speaker, to be entered in the Journal, firmed by him: and the original Paper is with this year's Papers. P. J."

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the Clerk, about one of the clock (to whom all that spoke directed themselves, according to former practice) by order, put the question for adjourning until 10 the next morning.*

" From these small beginnings, a common murmur arose, that an universal corruption had overspread the nation; that court, camp and city were tainted, nay, the very parliament itself infected. The house of commons, being awakened by the alarm, resolved to search into the bottom of the reigning corruption. They began with appointing a Committee, to inspect the Books of the Chamberlain of London, and of the East India Company, and impowered them to send for persons and papers. The inspection of the Chamberlain's Books related chiefly to the Orphans affair. The City of London had several years solicited in vain, to have a bill passed, for payment of the debt due to the Orphans. This debt grew into a great burden on the city, during the magistracy of Moor, Pritchard, North, Rich, and some others. Many hundred orphans starved, for want of their portions, which had been put into the Chamberlain's hands, on the security of the city; but, as the Exchequer was shut up in king Charles's time, so the chamber of London was also shut up, and bankruptcy pleaded to the demand of the distressed Orphans. When the management of the city affairs fell into better hands, a committee was appointed to inquire into this matter, who, finding that nothing had been done after three years troublesome solicitation, and that several Bills had been brought into the house of commons, for the relief of the Orphans, but they were always lost or so clogged that a bill could not pass through the house in a session, thought the most effectual way, to prevent the starving of these orphans, would be to give some men of interest what they should require; and engage them to do for profit, what they would not do for justice. Accordingly, by a proper application and disposal of several sums of money, a bill passed in the last session creating a fund for the repayment of the Debt owing to the Orphans, by the Chamber of London. Among the sums distributed on this occasion, it was found that the Chamber had made sir John Trevor, the Speaker, a present of 1000 guineas, for the service he did them in this affair. This was entered in their books, so that full proof was made of it. It was indeed believed, that a much greater present had been made him, in behalf of the Orphans: but no proof of that appeared, whereas what had been taken, in so public a manner, could not be hid. This was objected to Trevor, as corruption and a breach of trust, and upon it he was expelled the house; and Mr. Paul Foley was chosen Speaker in his room, who had got credit by his integrity and constant complaining of the administration. Mr. John Hungerford, a member of the house of commons, was also found to have received twenty guineas upon the same account, for which he was likewise expelled the house." Tindal.

March 14. Mr. Serjeant came, and brought the mace; and laid it under the table: then delivered to the Clerk a Letter from sir John Trevor, Speaker, directed 'To Mr. Jodrell, 'Clerk of the honourable house of commons;' which was opened: and inclosed, in the cover, was another Letter; which was read, as followeth: viz.

'Mr. Jodrell; My illness still continues; 'which makes me unable to come abroad; 'wherewith I desire you to acquaint the house; 'and that I humbly pray they will please to 'excuse me, for not attending them. I am your 'friend and servant, J. TREVOR, Speaker. 'March 14, 1694.'

Mr. Foley chosen Speaker.] After the reading whereof,

Mr. *Wharton* (Comptroller of the Houshold) stood up, and spake as followeth: Mr. Jodrell, I am commanded by the king to inform this house, that the late Speaker, sir John Trevor, hath sent him word, That his indisposition does so continue upon him, that he cannot further attend the service of the house, as Speaker: and further commanded me to say, That there may be no delay in the publick proceedings, he does give leave to this house to proceed to the choice of a new Speaker. Sir, the filling of that Chair is the highest station any commoner of England can be called to; but, however honourable it is, the toil and difficulties of it are so great, that I believe there is no reasonable man that hears me, but would be rather glad to have it supplied by any man than himself: and therefore, I shall, without fear of displeasing any person, out of so many who are qualified to serve you, to nominate —

Upon this he was interrupted by a great noise in the house, crying No, No, No: and several gentlemen stood up, to speak to order. Exceptions were taken by several members, That it was contrary to the undoubted right of the house, of choosing their own Speaker, to have any person, who brought a Message from the king, to nominate one to them.

Notwithstanding, the Comptroller stood up again, and named sir Thomas Littleton; which was seconded by sir Henry Goodrick. Whereupon arose a debate: and another person, viz. Paul Foley, esq. was proposed by sir Christ. Musgrave, and seconded by the lord Digby. And, after a long debate, in relation to both the persons, the question was put by the Clerk, That sir Thomas Littleton take the Chair of this house as Speaker. The Clerk declared the Yeas had it. The house was divided. The Yeas on the right hand; and the Noes on the left. The Tellers were appointed by the Clerk; viz. For the Yeas: James Chadwick esq. 146. The Teller for the Noes: Colonel Granville: 179. So it passed in the negative.

Then the second question being about to be put, Mr. Foley stood up to speak; but the house would not hear him; but ordered the Clerk to put the question, That Paul Foley esq. take the Chair of this house as Speaker. It was Resolved, *nem. con.* Upon which, Mr.

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Foley made his excuse in his place; which was not admitted by the house. He was conducted to the Chair by the hon. col. Granville, and the hon. Henry Boyle esq. And, upon the first step of the Chair, after some pause, he made a Speech to the house again, to excuse himself. Which not being allowed, he sat down. And then the mace was laid upon the table. Afterward,

Mr. Comptroller *Wharton* spake as followeth: Mr. Speaker; His majesty hath commanded me to inform this house, that after they had chosen a Speaker, they should present him to his majesty to-morrow morning at 11 o'clock, in the house of lords.

Then the Speaker desired the direction of the house, Whether he ought to make the usual petitions for freedom of speech, &c. The house cried, No, No And some members said, That those petitions were demands of right, and ought not to be made but once, at the beginning of a parliament: and former precedents were cited in the case. Then the Speaker put the question for adjourning the house until to-morrow morning, nine o'clock; and so went away without the mace before him.

The new Speaker's Speech to the King.] March 15. A Message from his majesty, by the Gentleman Usher of the Black Rod, commanded the house to attend him in the house of peers. Accordingly, Mr. Speaker, with the house, went up to attend his majesty, and spake as followeth:

"May it please your most excellent majesty; The commons of England, in parliament assembled, having, by a very extraordinary occasion, lost the service of their late Speaker, proceeded to a new election; and, being commanded by your majesty to present their Speaker at this time and place, they now wait on your majesty, in full parliament, to present me to succeed, on whom they have unanimously agreed. I must acknowledge myself very unfit for so great an employment; and wish they have not done themselves a great prejudice therein; which they might have avoided, having choice of many much more able members for that service: but I dare not oppose my own opinion, to that of so great a body as the commons of England: and therefore, with your majesty's approbation, am ready to serve your majesty and them, to the utmost of my abilities. If they find themselves, on trial, mistaken; and that I cannot answer their expectations; though hitherto they will not allow me to excuse myself; yet then I hope they will; and provide one more fit for your majesty's and their service."

The *Lord Keeper* (sir John Somers, kt.) spake thus: "Mr. Foley; The king has taken notice of the modesty which you have shewn, in speaking of yourself; and how just a sense you have expressed of the weight and difficulty of the employment to which you are called: but his majesty has commanded me to tell you, that he is so well assured of your dutiful affection to his service, and so fully satisfied of your integrity, your abilities, your industry, and application to business, and your experience in the customs and orders of parliament, that he does well allow of the choice which the house of commons have made, and does approve of you for their Speaker."

After the Lord Keeper's Speech, the Speaker replied: "May it please your majesty; I, with humility and thankfulness, acknowledge your majesty's great favour; and hope your majesty's approbation will be a great assistance to me in the discharge of my duty. Not to mis-spend time, now very precious for your majesty's affairs, I shall only make it my humble request, that whatever mistake or fault I may commit, your majesty will not impute it to your commons; and for myself, not committing any wilfully, I cannot doubt of your majesty's gracious pardon."

Mr. Speaker reported, That he had, with the house, attended his majesty, who had approved of their choice of him to be Speaker. Afterwards, he returned his humble thanks to the house, for the honour they had done him.

Sir John Trevor, the late Speaker, expelled.] March 16. The house proceeded upon the Report from their Committee, and Resolved, "That sir John Trevor, late Speaker of this House, being guilty of a high Crime and Misdemeanor, by receiving a Gratuity of a Thousand Guineas, from the City of London, after passing the Orphans Bill, be expelled this house."*

Mr. Bird reprimanded for offering a Bribe to a Member.] March 18. Mr. Bird attending, according to order, was called in, and, being at the bar, was told by the Speaker, That there had been a Complaint made against him to this house, for offering of Money to Mr. Musgrave, a member of this house, to present a Petition to this house. Whereunto he said, That some persons did apprehend, that a Bill depending in this house, for settling an estate late of Mr. Howland, did affect their interest in part of that estate; and therefore desired him to prepare a Petition to be presented to this house, for the providing for their interest: which accordingly he did: and that he being a stranger to the proceedings of this house, and there being a Title in the case, and knowing Mr. Musgrave to be a gentleman of the long robe, did intend to give him a guinea for his advice in that matter; but understanding by Mr. Musgrave he had committed an error in so doing, he had begged pardon of Mr. Musgrave, as he did now of this house. And then withdrew.

Resolved, That the said Mr. Bird be called in; and that Mr. Speaker do reprimand him, upon his knees, at the bar. And he was called in; and, upon his knees, reprimanded accordingly; and then discharged.

* Sir John retired to his other lucrative place, the Mastership of the Rolls, which place he retained for several years.

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Resolved, "That whosoever shall discover any Money, or other Gratuity, given to any Member of this house, for matters transacted in this house, relating to the Orphans bill, or the East-India Company, shall have the Indemnity of this house for such gift."

Ordered, That Mr. Charles Nowis, Mr. James Smith, Mr. George Finch, Mr. Dowse, Mr. Herne, Mr. Chiswell, and Mr. Chadwick do attend this house to-morrow.

Mr. Hungerford expelled, and Sir Tho. Cooke sent to the Tower for refusing to be examined.] March 26. The commons proceeding on the Report relating to the Members of this House taking money; Resolved, "That Mr. Hungerford a Member being guilty of a high crime and misdemeanor, by receiving 20 guineas for his pains and service as Chairman of the committee to whom the Orphans bill was committed, be expelled the house." And ordered, That sir Thomas Gooke, a Member, having refused to give an account of the Money of the East India Company by him distributed, be committed Prisoner to the Tower; and a Bill be brought in to oblige him to give such account. This Bill was presented by Mr. Bridges on March the 28th, and received and read the first time: The next day it was read a 2nd time, and the cashier to the East-India Company, according to order, produced the Warrants for the sums paid for special service or charges general.

On March 30, sir Basil Firebrace delivered in an Account of Monies by him paid for the service of the East-India Company; and sir Thomas Cooke petitioned the house, that he might be heard by Council before the Bill do pass, which was granted.

April 2. The commons in a grand committee went through the Bill, and made Amendments, which were reported the next day.

A Bill to oblige sir T. Cooke to answer sent up to the Lords, and opposed by the Duke of Leeds.] April 6. Sir T. Cooke's council were heard, and the Bill was read a third time and passed. —Upon its being sent up to the lords, the duke of Leeds,* lord President of the Council, spoke vehemently against it, and introduced what he was about to say with a most solemn Protestation of his cleanness and innocence; and, laying his hand on his breast, declared, upon his faith and honour, 'That he was perfectly disinterested, and had no part or concern in this matter, and therefore might the better appear against it;' which he did, expressing great abhorrence of the Bill.

Message to the Commons relating thereto.] April 13. Their lordships sent a Message to the commons, that they having under their consideration a Bill to oblige sir Thomas Cooke to account, &c. do desire sir Thomas Cooke (a member of the house of commons, and now a prisoner in the Tower) may be permitted and ordered to appear at the bar of the lords house, when desired; and thereupon the commons ordered that he do attend the lords as desired.

Sir T. Cooke heard by the Lords.] Sir Thomas Cooke being brought upon his Petition to the bar of the lords, he declared himself ready and very willing to make a full Discovery; and said, he had done it before, in the house of commons, if he could have obtained there an indemnifying Vote: and that their denying it him had occasioned his appearing before their lordships in that manner: He bemoaned himself (weeping) that he was not indemnified at that instant, so that he might just then make the Discovery which was expected, and which he was so desirous to make.—Thereupon it was demanded of him, what he would be indemnified from? He answered, All actions and suits, except from the East India Company, whom, if he had injured, he would be bound to undergo the greatest rigour. He also said, he desired to be indemnified from *Scandalums*. It was asked him, whether he meant *Scandalum magnatum*? He said, Yes.

The D. of Leeds moves that he should purge the Peers upon Oath.] He being withdrawn, the duke of Leeds stood up, and declared, He was very glad that gentleman was come to such a temper, as to be willing to discover, whereby that Bill was prevented, which his lordship esteemed to be of so pernicious a nature. His grace minded their lordships how the commons took care of the reputation of their house, in asking sir Thomas Cooke whether he had distributed any Money among any of their Members, who purged them by a solemn Protestation, that he had not; his lordship thinks it reasonable the lords should have some regard to themselves, and therefore moved that sir Thomas Cooke might be called in and asked, Whether he were willing upon Oath to purge all those who sat there? But this was not received.

After this the lords came to a Resolution, That the Bill sent up from the commons, to oblige sir T. Cooke to give an Account, &c. should not be proceeded upon, but appointed a committee to draw up a Bill to indemnify him. —That committee being withdrawn, and having made some progress, notice came from sir Thomas Cooke (by a reverend prelate who appeared zealous for him) to this purpose, That he was afraid he might be misapprehended as to what he said concerning a Discovery, in that he said he was willing and ready; but by ready he meant no more but willing; and that he should need at least four months to make the Discovery he promised. This was highly resented by some of the lords of the committee, who immediately moved that the committee might rise and report to the house this fresh matter, and the trifling and prevaricating of sir Thomas, so that the Bill designed to oblige

* Sir Thomas Osborne, created baron of Kiveton and viscount Latimer, by king Charles 2, August 15, 1673, and earl of Danby, June 27, 1674, marquis of Carmarthen by king William, April 20, 1689, and duke of Leeds, April 30, 1694. See Proceedings against him as earl of Danby, vol. iv. p. 1067.

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him to give an Account might now proceed.—Some lords mollified this, and having taken up some time in speaking; in the mean while sir Thomas begging a favourable treatment, engaged to discover within a fortnight: He was called in more than once, and at last agreed to the time allowed by the Bill, viz. seven days.

Bill to indemnify sir T. Cooke.] Both houses at last agreed on a Bill which was in effect as follows: The preamble sets forth, "That it appears by the Books of the East-India Company, that sir Thomas Cooke, kt. in 1693, being governor of the company, did receive out of their stock and treasure 77,258*l.* and also 90,000*l.*—And that a true Discovery of the distribution of those sums is necessary to the vindicating the justice and honour of the government, and that sir T. Cooke hath voluntarily offered to make such Discovery so as he may be indemnified.—It is enacted, That if sir T. Cooke, on or before the 23d of April, 1695, do make a true and full Discovery upon oath before a committee of the lords and commons, how and in what manner, and to what person or persons, and to what particular uses, intent and purposes, and on what account the said 90,000*l.* and the sum of 67,000*l.* part of the said 77,258*l.* have been distributed, then he shall not, by reason of such Discovery, be liable to any action of any person other than the East-India company; and shall be and is pardoned and indemnified for any crime in the distribution or application of the said money to any person other than to himself.—And it is further enacted, That the said sir T. Cooke shall, on or before the first of Sept. 1695, either discharge himself upon oath to the Commissioners for stating and taking the Public Accounts, of the sum of 10,258*l.* residue of the said 77,258*l.* or discover to them upon oath how and in what manner, and to what person or persons, and to what uses, intent and purposes, and on what account the said sum of 10,258*l.* hath been distributed or made use of; and in such case he shall not, by reason of such Discovery or discharging himself upon oath, be liable to any action, &c. other than the said Company, and is declared pardoned for any crime he may be guilty of in the distribution or disposal of the same to any person other than to himself; provided, that if he shall not, on or before the said 23d of April, make such true and full Discovery, that then he shall from thenceforth continue a prisoner in the Tower, until he shall have made such true and full Discovery upon oath before the commissioners for taking the Public Accounts."

The King's short Speech for dispatch of Business.] April 22. His majesty gave the royal assent to several bills; After which his majesty spoke as follows:

"My lords and gentlemen; I take this occasion to tell you, that the season of the year is so far advanced, and the circumstances of affairs are so pressing, that I very earnestly recommend to you the speedy dispatching such business as you think of most importance for the public good, because I must put an end to this session in a few days."*

April 23rd, sir H. Goodrick acquainted the commons that their Address for obliging the Colonels and other Officers employed in the Reduction of Ireland, to account for what Money they had received to pay the inferior officers and soldiers, had been presented to the king, who was pleased to answer, "That he had already given orders, as well in Flanders as in England, for the doing what is mentioned in the Address; and that some Officers, who neglected to comply with the directions, had been cashiered; however, that he will repeat those orders under the severest penalties to such as shall disobey them." Mr. Comptroller Wharton acquainted the house the same day, that their Address had been presented to his majesty, praying, "That his majesty, in his great wisdom, would please to take care for the future that this kingdom be put upon an equal foot and proportion with the Allies, in bearing the Charge of the present war." And that his majesty was pleased to answer in these words, "In this, as in every thing else, I shall always endeavour to have a due regard to the interest, and to the honour of the nation."

Report of sir T. Cooke's Examination by a Committee of both Houses.] April 24. Mr. Comptroller Wharton made a Report from the Committee of lords and commons† appointed

* "As it is impossible not to discern the drift of this Speech, it is equally impossible not to be shocked at it; and the more we are disposed to revere the character of a 'Deliverer,' the more we must be confounded at every measure that serves to disgrace the Deliverance. It was once well said, That he who was not at leisure to do justice, ought not to be at leisure to reign; and to king William it might have been said with more propriety, than to any other prince; his high pretensions to rectify all Abuses, had constituted him a sovereign; and his adversaries could find no defect in his Title, which hurt him so sensibly as the defects of his administration." Ralph.

† "The Lords appointed 12, viz. The lord privy-seal Pembroke, the duke of Shrewsbury, the earls of Manchester, Bridgewater, Thanet, Rochester, Monmouth, Marlborough, and Torrington, the lord-viscount Weymouth, and the lords Cornwallis and Godolphin. The Commons appointed 24, viz. sir John Thompson, sir R. Onslow, ——— Bridges, esq; sir Hen. Herbert, Ch. Montague, Henry Boyle, ——— Hutchinson, Hugh Boscawen, Tho. Pelham, Tho. Wharton, (Comptroller) Rob. Harley, James Chadwick, Edw. Clarke, Tho. Papillon, esqrs, sir Tho. Pope Blunt, sir Walter Young, sir Christ. Musgrave, sir Edward Abney, sir Herbert Croits, sir Rowland Gwyn, sir Wm. Cowper, ——— Brockman, and Francis Gwinne, esq. Thus it appears, that in each List there was a mixture of Patriot and Courtier, Whig and Tory: for both parties affected an equal

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to hear and examine sir Tho. Cooke, by virtue of an Act, intituled, 'An Act to indemnify sir Tho. Cooke from Actions, which he might be liable to, by reason of his Discovery to whom he paid and distributed several Sums of Money, therein mentioned to be received out of the Treasure of the East-India Company; or for any prosecution for such distribution,' which Report was as followeth: viz.

Die Martis, 23 *Aprilis* 1695. In the Exchequer-chamber.

"Sir Thomas Cook being called in, and the Act read; he thereupon observed to the said Committee something relating to the Clause touching his imprisonment: and did desire, That in case he should then make a full and perfect Discovery, to the satisfaction of the committee, it might by them be represented to each house, so as he might obtain their Votes for his discharge, he apprehending, by the Act, That no person is impowered to release him, in case of such Discovery:—Whereupon the Committee acquainted him, That they were of opinion, if he made a full Discovery, he would not be liable to the penalty of the act; but, however, his scruple should be fairly represented to both houses.

"Sir T. Cook, being sworn, acquainted the Committee, That, for their ease he had put his Confession down in writing; a copy whereof is hereunto annexed; the original being read by him: and the Committee conceiving it to be imperfect, and not such as the Act requires, the committee let him know, That they expected a more particular Account of those matters from him.

"To the first sum, of 10,000*l.* mentioned in the said writing, he saith, The same was paid to Mr. Tyson in Nov. 1692: That he gave him no direction how it should be disposed; but it was in expectation to have the Charter of the East-India Company confirmed, and new regulations thereto made; and they concluded it for the service of the Company: It was intended for the king; but he could not say the king had it.—He believes the East-India Company never had any Account how this 10,000*l.* was disposed of: he told the Court as he remembers, That he had disposed of the Money; and they required no Account thereof: he believes Mr. Tyson told him, That he delivered it to sir Josiah Child, who delivered it to the king: He saith, It is a customary present: and that, in king Charles, and other former reigns, the like had been done for several years, which by the Books of the Company may appear:—That the Company, when this present was made, were in an ill condition; and that he himself advanced this sum: and had it not repaid in four or five months time: The same, with the interest thereupon due, was presented to the king in tallies.—As to the 10,000*l.* and 2,000*l.* next mentioned in the Account, he saith, Those sums were paid to Mr. Rd. Acton, about the same time: who declared, he had several friends capable of doing great service to the Company's affairs, and several of them would speak with parliament-men. That he could not particularize who they were; but the end aimed at was, to get an act of parliament.

"He, sir T. Cook, offered to give the Company an Account how the Money was disposed of; but they did not think fit to receive it. And further saith, That he knows no man, besides Mr. Acton, that can give an account who had that money; that he intrusted this money wholly with Mr. Acton, taking him for an honest and able man; the Court having given him power, as he conceived, to dispose of the money by another hand, as well as by his own. That the inducements for giving this money were, fears of the Intelligencers going out, and subscriptions for a new Company going on; by which, they apprehended, the Company would be ruined; that to the best of his remembrance, there was a Bill at that time, for another East India Company: and that the king had sent a Message to the House of commons, to settle the East India Trade. That this 10,000*l.* was advanced by Acton himself, and not repaid him in some months after; which money, he believes, Acton paid away the same sessions: the other 2,000*l.* to Acton was for interest, and for his pains and expences, which were great: Acton did say, He could tell some persons employed in that affair:—He did understand, This Money was to be laid out for promoting their affairs in parliament; but cannot say to whom it was given; but understood it went no farther than the house of commons; and that he found no good fruit by such distribution.

"That Mr. Acton had, at that time, an interest in the East-India Co. to the value of 10,000 or 20,000*l.* as he believes: and had so for some time: that he gave this 10,000*l.* with the privity of sir Josiah Child; who recommended Acton as a person capable of doing the Company service, having great acquaintance with parliament-men, and others, who had interest with them: that he knows not who Acton employed in the distribution of this money.—As to the 2238*l.* 7*s.* 6*d.* mentioned to be paid to Mr. Molineux, he saith, The same was paid him about the same time the money was paid to Mr. Acton: that Mr. Molineux told him this money was to be disposed of to the lord Rivers, who was then lord Colchester and in the house of commons: but further saith, That, since his confinement, Molyneux had been with him, to tell him, it was a wrong thing; and that my lord never had it, but that he had made use of it himself.

"As to the further sum of 250*l.* mentioned in the said Paper to be paid Mr. Tyssen, for the service of the Company; he saith, It was

concern for the prosecution; and it is certain that both were equally concerned in it: Each had friends to screen, and adversaries to expose: and the great point of contest between them probably was, which should be made answerable to the public for the Job." Ralph.

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paid him about the same time, and was in relation to Salt-petre; but he cannot give any further account thereof.—As to the 220*l.* mentioned to be paid to sir John Chardin; he believes it was for his own use, having expended great sums in the Company's service.—As to the 350*l.* paid to Mr. Duckmanique; he said, He believed he expended the same; but knows not to whom he gave it.—As to the 382*l.* 1*s.* 8*d.* paid to capt. Germain; he saith, That Mr. Germain told him, he had lost about 700*l.* in the interest of the Interlopers; and finding that interest to decline, he applied himself to him the said sir Tho. Cooke, proposing, That if he might have half the money which he had lost, repaid him, he would come into the East-India Co. interest; upon which consideration the said 382*l.* 1*s.* 8*d.* was paid him.

"As to the 1,091*l.* 13*s.* 4*d.* paid to Mr. Fitz-Patrick, deceased; he saith, That Fitz-Patrick told him, he had a great interest with the lord Nottingham; that he would try what he could do, and he did not doubt but he might accomplish great services, provided he might have such a sum of money; but, he believes, the said Fitz-Patrick kept the money himself: that there was a promise of a further sum; but the intended act of parliament did not pass.—As to the 515*l.* 16*s.* 8*d.* it was to be paid Mr. Ch. Bates when the Charter was settled; and was paid accordingly in Oct. 1693: he himself had no acquaintance with him; but sir Basil Firebrace told him, he had acquaintance with several lords, and named the marquis of Carmarthen, now duke of Leeds.*

"As to the first 10,000*l.* paid to sir Bazil Firebrace: it was paid him about Nov. 1693; and it was always his apprehension, that sir Bazil kept it for himself, to recompense his losses in the interloping Trade.—As to the several other sums, which complete the further sum of 30,000*l.* paid to sir Bazil; he saith, they were paid at one time, though depending upon several contracts.

"That it was agreed, That in case the Charter passed, that the Company should take 60,000*l.* stock of sir Bazil Firebrace, at 150*l.* per cent. when the Charter was passed: he put this stock upon the Company at 150*l.* per cent: their stock was then at 100 per cent.; by which the Company lost 30,000*l.*—He saith, he never could tell to whom this Money was distributed, nor would sir Bazil give him an Account of that matter, though often asked by him to do it; and sir Bazil said, if he were further pressed, he would have no more to do in it.—That the Charter being passed, the Company paid the 30,000*l.* about Jan. 1693, in recompence for the fail of the Stock: the Company was also to transfer 40,000*l.* more Stock, at 100*l.* per cent. if an Act passed, in 18 months, for confirming and enlarging their charter; but the act of parliament not being passed, the contract for that 40,000*l.* stock became void.

"Sir T. Cooke produced a Contract, dated the 19th Sept. 1693, which was mentioned to be made in consideration of 300 guineas paid to him; which consideration he declared he had not received: He likewise produced another Contract, dated 25 Oct. 1693; He saith, there were several Contracts; some to the value of 60,000*l.* on account of procuring a new Charter; and others to the value of 40,000*l.* on account of procuring an act of parliament: they were all in sir Bazil Firebrace's name: one of each sort was by him produced, to shew the nature of these contracts.—He saith, the 30,000*l.* was paid to sir Bazil or his order, upon ten several contracts; it was paid in six several sums; viz. 15 or 20,000*l.* (and he thinks 10,000*l.* a-piece, because no more than that sum can be subscribed by one person) to Fowls and Wotton: to Mr. Edw. Allen, scrivener, 5,000*l.*: to Mr. Hornby, 5,000*l.*—That the 30,000*l.* and 10,000*l.* was subscribed into the Stock of the East-India Co.; and, he believes, the subscribers can give further informations as to these sums.—He did not know, but the reason why the 30,000*l.* was in ten several contracts, might be, because sir Bazil might have occasion to distribute it to several persons.

"As to the 90,000*l.* he saith, That it was 99,197*l.* Stock, bought for 90,000*l.* of several persons, for the use of the Company, to make good the contract with sir Bazil, if he should choose to accept Stock. That the Stock was transferred to several persons to the Company's use: that he was accountable for it: that they had his own obligation for the same; part of which Stock was transferred to the Company; other part was sold for their use, and they have the money."

* "The very mention," says Ralph, "of those names, and the knowledge that Wharton, the Comptroller, presented the report to the commons, is sufficient to shew, that the direction of the affair was principally against the Tories: besides, the East-India company was still under a Tory, if not a Jacobite direction: one of their ships had been called the Modena, a long while after the Revolution: these corrupt Proceedings had all taken place, while the Tories had the upper hand in the administration: those, who by their endeavours to establish a new Company had given occasion to them, were known Whigs."

A true and full Discovery, upon oath, made by Sir THOMAS COOKE, to the best of his knowledge, how and in what manner, and to what person or persons, and to what particular uses, intents, and purposes, and on what account, the Sum of 67,000*l.* and the Sum of 90,000*l.* have been distributed, paid, applied, disposed, or made use of: which Discovery is in pursuance of an Act of this present session of parliament. Dated 23rd April 1695.

	£.	*s.*	*d.*
Delivered to Francis Tyssen, esq. several Tallies for 10,000*l.* for the special Service of the Company.....	10,000	—	—

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To Interest and Allowance due for the said Tallies till the same was repaid me	597	8	10
To Mr. Rd. Acton to defray the Expences of himself, and for his friends soliciting to prevent a new Settlement of an East-India Company, and to endeavour the Establishment of the old	10,000	—	—
To ditto, for Interest of the Money, and Gratuity for his Pains, more	2,000	—	—
To Mr. Nath. Molyneux, Merchant, for himself and friends, in soliciting the Company's Affairs to prevent a new Charter, and to establish the old, 310 guineas	338	7	6
To Charges on the Salt-petre, and for the Tallies and other Expences	164	16	10
To Francis Tissen esq. for the Service of the Company	250	—	—
To what I find, by my Notes of Memorandums, is charged to myself, 100 guineas	109	3	4
To sir John Chardin, for several Expences and Services in the Company's Affairs	220	—	—
To Paul Dockminique, esq. for soliciting the Company's Affairs to prevent a new Company, and to establish the old	350	—	—
To Capt. John Germaine, in consideration of Loss he had by East India stock, and on his promise to come into the Company's Interest, 350 guineas	382	1	8
To Col. Fitz-Patrick, for the Service done the Company by his solicitation for a new Charter, 1000 guineas	1,091	13	4
To Charles Bates esq. on the same Account, 500 guineas	545	16	8
To sir Bazil Fiebrace, in recompence of his trouble in prosecuting the Company's affairs, and in consideration of other Losses he had sustained, by neglecting his own business, and by not engaging himself with the interloping ships	10,000	—	—
To said Sir Bazil, for 50*l.* per cent. loss on 10,000*l.* stock, I was obliged to accept of him at 150*l.* per cent. being on the Company's Account	5,000	—	—
To ditto, for like loss of 50 per cent. on 9,000*l.* stock	4,500	—	—
To ditto, for.....ditto.....8,000*l.*	4,000	—	—
To ditto, for.....ditto.....7,000*l.*	3,500	—	—
To ditto, for.....ditto.....6,000*l.*	3,000	—	—
To ditto, for.....ditto.....5,000*l.*	2,500	—	—
To ditto, for.....ditto.....4,000*l.*	2,000	—	—
To ditto, for.....ditto.....1,000*l.*	500	—	—
To ditto, for.....ditto.....6000*l.*	3,000	—	—
To ditto, for.....ditto.....4,000*l.*	2,000	—	—
To the Attorney-General, for his great trouble and pains about the Charters, and other affairs relating to the Company, 500 guineas	545	16	8
To the Solicitor-General, on the same Account, 200 guineas	218	6	8
To Mr. Sambrooke, &c. for charges in passing the said Charters	218	6	8
	£ 67,031	18	2

(Signed) THO. COOKE.

An Account of the Disposition of the 90,000*l.* mentioned in the said Bill, which was for East-India stock bought of several persons, for Account of the East India Company, as by the particulars below appears; viz.

	East India Stock.		£.	s.	d.
Of Mr. Robert Marshall	4,066 10 —	....which cost....	3,659	17	—
Of Ralph Marshall esq.	2,033 5 —	.....	1,829	18	6
Of Mr. Abraham Willmer	5,760 17 6	.....	5,184	15	9
Of Mr. John Blacker	1,016 12 6	.....	914	19	3
Of Mr. Wm. Sheppard	6,777 10 —	.....	6,099	15	—
Of Sir Salathiel Lovel	1,016 12 6	.....	914	19	3
Of Paul Dodmanique, esq.	1,355 10 —	.....	1,219	19	—
Of Mr. John Dubois	2,033 5 —	.....	1,829	18	6
Of Mr. Robert Lancashire	6,777 10 —	.....	6,099	15	—
Of Mr. Vincent Shepard	3,388 15 —	.....	3,049	17	6
Of Mr. Francis Gosfright	3,388 15 —	.....	3,049	17	6
Of Frederick Hern esq.	5,422 — —	.....	4,879	16	—
Of Captain Jonath. Andrews	677 15 —	.....	609	19	6
Of Sir Tho. Grantham	1,694 7 6	.....	1,524	18	9
Of John Perry, esq.	3,388 15 —	.....	3,049	17	6
Of Mr. Richard Munford	4,744 5 —	.....	4,269	16	6
Of Mr. Sam. Ongley	19,654 15 —	.....	17,996	1	5
Of Richard Mounteney esq.	3,300 — —	.....	2,970	—	—
Of Mr. Gabriel Glover	5,500 — —	.....	4,950	—	—
Of Mr. Thom. Powell	17,200 — —	.....	15,695	—	—
	£. 99,197 — —	Stock cost	89,799	1	11

For Provision, &c. of the said 99,197*l.* Stock, only computed at 200*l.* 18*s.* 1*d.* to make up the 90,000*l.*	200	18	1
	90,000	—	—

(Signed) THO. COOKE.

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Debate on the above Report.] Upon the above Report, the debates were very warm.*

[*A*] informed the house that earl Rivers, who upon the Examination was said to have received 300 and odd pounds of the money, protested he never had a penny, and though he was now of another house, he had the same esteem and honour for this house as heretofore; and that he had moved the house of lords, and they had sent for Molineux, who had said he had received that money.

[*B*] observed, that as to all the little sums, sir Thomas Cook knew very well to whom they were given, but he could never learn to whom sir Basil Firebrace delivered the money he had received; for sir Basil would not give him any Account of that matter, though often asked by him to do it. Acton would have told him, and he would not hear him, so between these two we were sawn. You have it among you, gentlemen.

[*C*] took notice of sir Thomas Cook's long preamble, that he had inspected his powers, reduced his Account into writing, and delivered it in that Paper. Whereupon he was examined by the Committee, and it was with great difficulty that what they had was drawn from him. As to the first 10,000*l.* they had but an hearsay: Tyssen told him, he gave it sir Josiah Child, who said he gave it the king. [And here note by the way, that in the fore-mentioned Examination it was said to be a customary present; and that in king Charles's and other reigns, the like had been done for several years, as appears by the Company's Books.] As to the second 10,000*l.* to Acton, he proffered to tell him the particulars, and he was unwilling to hear him; but did not doubt but Acton would give a particular and satisfactory Account of all distributed by him; and yet at the same moment being asked where and in what condition this Acton was, he declared he was a distracted man, and not able to give the house any Account at all. As to the 40,000*l.* to Firebrace, he believed he kept 10,000*l.* for himself, and for the rest he refused to tell him to whom, or for what, or when it was issued. That he mentioned contracts to the value of 60,000*l.* on account of procuring a new Charter, and also 40,000*l.* for an Act of Parliament. They were not fools, but they parted with their money very easily, their proprietors were little beholden to them.

[*D*] said, No man is innocent, if every man was guilty; the members could not be innocent, if they did not lay their hands on these men, that had betrayed them and the Company, and he hoped themselves; he would have them go as far as they could, then they should not be in fault; and moved that Firebrace and Acton should be ordered to attend the next day.

[*E*] seconded the motion, and moved that they should not forget a Member of their own, who was accused for receiving a considerable sum.

Ordered, That Mr. Fowles, Mr. Wootton, Mr. Nath. Hornby, Mr. Allen, Mr. Tyson, Mr. Acton, sir Basil Firebrace, and sir Josias Child, be summoned to attend this house to-morrow morning.

In the midst of these debates, a Message came from the lords, desiring a present Conference in the Painted-Chamber; which was immediately had. Their lordships proposed, that all future Examinations of any of the persons mentioned in the Report of sir Thomas Cooke, be had before a committee of both houses. To which the commons agreed.

Examination of Sir Basil Firebrace.] April 27. Mr. Comptroller Wharton made a Report from the Committee appointed by both houses, to examine the persons mentioned in the Report of sir Thomas Cook's Account, which Report is as followeth, viz.

Die Mercurii, 24 Aprilis. In the Exchequer Chamber.

"Sir Basil Firebrace, being interrogated touching his Receipt of 10,000*l.* and of 30,000*l.* charged on him by sir Tho. Cook, and also touching the distribution thereof, deposeth, That the said sum of 10,000*l.* was given him, as a gratuity, by the said sir Tho. Cook, for his losses; of which he hath given sir Tho. Cook a satisfactory Account: that he received the 10,000*l.* some time before the Charter for the East India Company passed: That the said sum of 30,000*l.* was received by him, by virtue of a contract with sir Tho. Cook; it was for favours and services done: That the stock, at the time of the contract, valued at 150*l.* per cent. falling afterwards to 100*l.* per cent. the difference was 30,000*l.*; which they made up to him: That the reason of the fall of the Stock was, the ships not coming in; and, if that had not happened, he, the deponent, had gained as much as the 30,000*l.* paid him: That he is positive the 10,000*l.* and 30,000*l.* was directly for himself, and for the use of no other person whatsoever: That he paid no part of the same towards procuring a charter, or act of parliament: nor made any promise so to do: That he had several discourses with sir Thomas Cook about using his, the deponent's, endeavours to procure a new Charter; for that it was his interest so to do after the Contracts were made:—That he did use all his interest to prevail with the Interlopers to forbear prosecution; and that he did endeavour all he could to improve the Company's Stock; and made it in his bargain, That the Company should submit to regulations in their charter.

"He believes, That sir Tho. Cook might desire him to acquaint him how he disposed of the Money; but that he, this deponent, told him, It was not fair; it was contrary to their agreement; he was not to ask him, this deponent, what he did with his own. That in some of the Contracts the consideration or premium, mentioned therein, was paid; and refers to the Contracts; that in some of them 5*l.* per

* See State Tracts in the reign of William III. vol. ii. p. 492.

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cent. in others 5*s*. is the premium mentioned: That in the contract 15th Sept. 1693, the 300 guineas were paid by note, which sir Tho. Cook kept some time, and afterwards did deliver up to this deponent, without having received any money from this deponent.

"Being asked, What particular services he did, or was to do, for procuring a new Charter? Saith, that he wished he might answer to that at some other time, being not well, not having slept two or three nights, and much indisposed as to his health: That he was unwilling to take too much upon himself: he thought he did great service to the Company in solicitation, and other services: he knew not of any Money, or Stock, given to any person whatsoever for procuring a Charter. Being asked, Whether the 30,000 *l*. or the value of 30,000 *l*. was wholly for himself, and was not disposed to any other person? Saith, That no part of it was to any other person but himself, except one 500 *l*. paid to Powel, whose Christian name he did not remember: but saith, That he lives at Thanet House: that he was not sure whether he paid that out of this, or his own: It was paid to Powel, because he had good interest among the Interlopers, and was instrumental in reconciling differences.

Die Jovis, 25 *Aprilis*. In the Exchequer-Chamber.

At a committee of both Houses, appointed for the Examination of several persons, touching the receipt of Money mentioned in a late act: and touching the distribution thereof.

Mr. Hornby, goldsmith, exhibited to the committee an Extract of sir Basil Firebrace's Account: which, being examined and compared by the Committee, was signed by him; and is hereunto annexed: And deposeth, "That at the time when he subscribed 10,000 *l*. into the East-India Co.'s Stock, he had sir Basil's word for his security in case the Stock fell, to have 5,000 *l*. part thereof, repaid him, if he, this deponent, should desire it, at the end of that year: That he did call for his money at that time, and took the East-India Co.'s Bond for it, payable in March; at which time a Sale commenced; and he, having his money then paid, transferred it to the Secretary of the East-India Co. —To the other 5,000 *l*. part of his said Subscription, he saith, That he had no conditions from sir Basil; for that, having subscribed before, he knew such terms were to be had: That he knows not whether sir Basil made such terms with others or not; but hath heard, he did the same with Mr. Fowles."

Mr. Fowles exhibited an Extract of sir Basil Firebrace's Account, examined as aforesaid; and is hereunto annexed, and signed by him: And deposeth, "That he cannot remember the Names of any Members of Parliament, to whom any money was paid by sir Basil's order: That he never keeps any private Notes or Memorandums of persons names to whom he pays Money; and hath no other Accounts, as to that matter, but what are in his Books."

Sir Basil Firebrace, having desired leave to be called in, further deposeth, "That, having had a treaty with Mr. Bates, whom he thought able to do service in passing the Charter, and to have acquaintance with several persons of honour, he, this deponent, gave two notes for 5,500 guineas to Mr. Atwell, payable to Mr. Bates, or bearer: That one note was for 3,000, and the other for 2,500 guineas: That he, this deponent, did put the notes into Mr. Bates' hands; who told this deponent, That he would deal with him for himself; and, if the business were done, he would keep the notes, else deliver them again: That the 2,500 guineas were paid after the Charter for restoring the East-India Company passed; the other, for 3,000 guineas, after the Charter for Regulation passed: That he had those Notes from sir Tho. Cooke, and was accountable to him for the same; which he put into Mr. Bates's hands: That the said sir Tho. Cook did know, as this deponent verily believes, how these Notes were to be disposed of: And further saith, He told sir Tho. Cooke, that Bates had acquaintance with several lords, naming the Lord President, and others: That he, this deponent, could not tell who this Money was designed for, or what Bates did with it; for that Bates would not deal on such terms of telling names: That Bates did introduce him, this deponent, several times to the Lord President, who made some scruples in points of law; upon which this deponent desired his leave, that the Attorney-General might wait upon him; and he accordingly brought him: That he doth not remember any other lord, to whom Bates introduced him.

"He saith, That one day the last week, the 5,000 guineas were offered by Bates back again to him; who said, That this might make a noise: that, if sir Tho. Cook thought it too much, he would give it him again; and that, on Tuesday last, 4,400 guineas, being the value of 5,500*l*. was brought to this deponent: that the other 500 guineas are still in Bates's hands: that sir Tho. Cook did scruple to take back this money at first; but did afterwards consent to it the morning when he was brought up before this committee: whereupon this deponent gave him four Notes for the money, payable to Mr. Atwell, or bearer: and this deponent believes, He, the said sir Tho. Cooke, had a double Account; the one was made up with this sum, the other without it.

"He further said, That Bates would have paid back the whole; but sir Tho. Cook said, The Account would not be even, if the 500 guineas were not brought into that Account. That this was no part of the 40,000*l*. beforementioned in this deponent's Examination, and paid to him this deponent; which 40,000*l*. this deponent saith was wholly his own: That he always took care to have it particularly understood, that it was for his own use and benefit: the same was declared before witnesses. That they found great stops in the business of the Charter: they apprehended it proceeded sometimes from my lord Nottingham, sometimes

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from others: that col. Fitz-Patrick received 1,000 guineas on the same terms as was with others, if the Charter passed: he pretended great interest with my lord Nottingham; and that he could get information from the lady Derby how the Queen's pleasure was: col. Fitz-Patrick said, He would try to prevail with the lord Nottingham for 5,000 guineas, upon passing the Charter, and 5,000, on the Act of Parliament; but the lord Nottingham refused to take it: hath heard a Note, signed by sir Josias Child and sir Tho. Cook, for 50,000*l.* was lodged in Tyssen's hands, for about a year, to be paid, in case the act passed; and that it was refused, as he understood, by lord Portland: That Tyssen told him, He had made an offer, and it was rejected: that Tyssen told him this lately: That 1,000 guineas are entered in the E. I. Company's Books, and were to be paid to Mr. Ward and Mr. Fawkoner, who are of the Interloping interest: and made great opposition to the Charter:

"Mr. Ward said, If he had 1,000 guineas, he would bring over others to the Company's interest: these 1,000 guineas were to be paid on the arrival of the ship Seymour. That sir Wm. Pritchard and Dr. Ratcliffe did accept some East India stock; but on the same terms as any merchant might have done; and they paid their money for it.

Examination of Acton.] Richard Acton deposeth, "That he received of sir Tho. Cook the sum of 10,000*l.* and 2,000*l.*: that he, this deponent, did tell sir Tho. He had friends that would take pains to do the Company service, but they would have 10,000*l.*: That sir Tho. agreed, 10,000*l.* should be given; whereupon this deponent advanced that sum: this deponent had 2,000*l.* for his pains and trouble, in attending two sessions: if the Bill for a new Company had passed, this deponent was to have had nothing: That he verily believes, He gave sir Tho. an Account to whom he distributed it, or else, he thinks, the money had not been trusted to him: that he did not distribute it to Members, but to those who had interest with members: Some of them, to whom he gave money to be distributed, were Mr. Cragg; with whom this deponent was concerned in clothing the Army; who had acquaintance with Colonels in the house, and some Northern Members; Mr. Wallis, Mr. Pudsey, Mr. Duckmanick: Mr. Goldwell, who is since dead, was the only Member he himself gave money to: and that, if he had a little time to peruse his Papers, he could recollect further."

Examination of Powell.] Nathanael Powell deposeth, "That he was very instrumental in causing a good understanding between sir Tho. Cooke and the Interlopers: That he concerted how to bring about meetings between sir Tho. Cook and sir Basil Firebrace, who had been of a different interest: That sir Basil made some terms with sir Tho. upon which a Charter was to be had: That he perceived, by sir Basil, there was some difficulty in the matter; sir Tho. insisted to know what sir Basil did with the money; which sir Basil refused to let him know: That he always withdrew at their meetings; his business being only to go upon errands to procure meetings: and that one day he, this deponent, asked sir Basil, Whether he intended to make a porter of him? Sir Basil gave him his word, That he should have 500 guineas; and that, about two months since, he did receive 530*l.* though the promise was to have it paid upon passing of the Charter: That he hath bought 10 or 15,000*l.* stock at one time of sir Tho. Cook: he never took it to be the East-India Co.'s but sir Tho. Cooke's proper stock; and had his Contract for the repayment of it in six months, if desired: he generally had it repaid: if any loss was, he always looked upon it as sir Tho. Cook's, and not the Company's.

Die Veneris, 26 *Aprilis.* Exchequer-Chamber.

At a Committee of both houses, appointed for the Examination of several persons, touching the Receipt of Monies mentioned in a late Act; and touching the distribution thereof:

Mr. Wootton exhibited a particular Extract relating to sir Basil Firebrace's Account, taken out of his cash-book; and, being subscribed, is hereunto annexed; is the same with Mr. Fowles.

Mr. Bates's Examination.] Mr. Bates, upon his Examination, deposed, "That sir Basil Firebrace did apply himself to him, to use his interest for obtaining a Charter to the East India Co. the old Charter being forfeited; and told him, this deponent, they would be very grateful for it; but cannot remember that any particular sum was named: That he, this deponent, did use his interest with the Lord President; who said, He would do what service he could: and further saith, That the Lord President had delivered his opinion publicly, and thought the forfeiture of it a hardship: that the Lord President had often shewed himself his friend: That he received three notes for 5,500 guineas in the whole: that he sent a servant to receive the money; but cannot say the time: that he told my Lord President what sum he had; and would have pressed it upon my lord, but he refused it: whereupon this deponent, in regard he could not tell money very well himself, did ask leave of my lord, That his servant might tell the money; to which my lord made answer, He gave leave; and accordingly M. Robert did receive the money: That he had not the notes till after one Charter passed, and before the other passed: he saith, That all the notes were given together at one time; and that he, this deponent, gave no counter-notes when he received them:

"But afterwards, he, being examined to the same matter, was not positive, that counter-notes were not given: That he thinks, when he had the first treaty with sir Basil, That sir Basil did say, He should have a sum; and thinks he named a particular sum: That 500

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guineas were received before June last, and the other 5,000 guineas afterwards: That the said notes were not out of his possession, from the time he first had them, to the time he gave them M. Robert to receive the money: That M. Robert, after he had received the money, brought the same to him; which hath remained in his, the deponent's possession, and in his own house, till the time that he paid 4,400 guineas thereof back again to sir Basil; which, as he takes it, was upon Monday or Tuesday last. And he, being examined again to the same matter, saith, That these 4,400 guineas, paid back to sir Basil, were in four bags, with 1,100 guineas in each, brought to him by Robert within a month last past: And as to the 600 guineas remaining of the 5,000, he, at first, said, He had spent the same; and then, being afterwards examined to the same matter, did say, They were at home in his study; that he may have spent some: The reason why he paid back the 4,400 guineas was, the noise that it made, and that people might think he did not deserve them: That the whole 5,500 guineas were for his own private use; and that he might give them to his footman."

Second Examination of Sir Basil Firebrace.] Sir Basil Firebrace deposeth, "That the East-India Company's Charter being forfeited, sir Tho. Cook, and others, applied themselves to him, observing him active, and to have interest among noblemen, to endeavour the procuring a new Charter: That sir Thomas was apprehensive, that it stuck with the duke of Leeds; and told him, this deponent, That some way must be found out to the duke: he thereupon applied himself to Mr. Bates, who would not pretend to talk with the duke; but said, he, the deponent, must tell him what the Company would do: That sir Basil told him, he thought a Present might be made of 2 or 3,000*l.*: that Mr. Bates went to St. James's; and said, He had spoke to his friend, and that more had been offered on the other side: at another time he said, more was offered by our side: at last, said, 5,000*l.* had been offered, by another hand, on the same side; and that this deponent did not come up to the market: that he acquainted sir Thomas with this proposal; who said, If it was insisted on, it must be done: and so it was agreed to offer 5,000 guineas; Bates then said, This was nothing to him; he ought not to be employed for nothing: So this deponent was forced to go back to sir Tho. Cook for new orders: and so 500 guineas were given to him besides: That, at first, Bates said, He would undertake no further, than that the duke should not oppose, but be silent; because he did not know but the duke had engaged himself by having spoke on the other side: That he, this deponent, did except against this; because he would not let the Company's money go for nothing: and it would reflect upon him, that nothing appeared to be done for it:—It was then agreed, That if the duke did act in favour of the Company, that he should have 2,000, and 3,000 guineas; and Bates 500 guineas for himself: He, this deponent, would have put off his 500 guineas to the last; but Bates said, His friend would have him have the 500 guineas to himself first.

"Sir Basil produced a copy of Mr. Bates's receipt of a note of 3,000 guineas, which he thereby promised not to call for till the Charter should pass: the original he had given back when the money was paid; and had not taken a copy of the counter-note for the 2,500 guineas: That after the first Charter was passed, in Oct. he sent to Mr. Bates, that he might call for the money: and he did call for it in two or three days: that the other note was paid within a week after the passing of the second Charter: from the time the notes were given, they had free access to the Lord President, and found him easy and willing to give us his assistance:—That Mr. Bates was shy, and called it his friend at St. James's: that the condition of one draught, which Mr. Bates brought, was worded, 'in case the Lord Duke did not assist the Company in passing the Charter:' To which this deponent made an alteration, by putting out my lord's name, and making it not payable, in case the Charter should not pass: Bates said, It came from his friend at St. James's:—That, about a week before the money was brought back again, this deponent went to Bates about it, who then told him, It was all for himself: That, on Sunday night last, or Monday, Bates, being at his own house, said, He had not the money by him; but he would fetch it: and that the money, he thought, was in silver; but afterwards said, it was only a mistake; and had brought it in gold; which by computation came to the same sum: That when this deponent told him, That sir Tho. Cook would not take the whole back again, Bates said, he could give no answer to it, till he had spoke with his friend.

"This deponent saith, That, on Monday last, 500 guineas were left at his house, by Mr. Clyve, a friend of sir John Trevor's, who said, He brought it from sir John Trevor, to whom sir Tho. Cook had before paid it with his own hands, under colour of an arrear for four or five years, as he had been commissioner of the great seal: And he, this deponent, was present when sir Tho. Cook gave it: There was, at another time, 200 guineas ordered to be given to sir John Trevor, for a new-year's gift, by sir Jos Herne.

"That, as to 20,000*l.* of the 30,000*l.* beforementioned, the same sums were not actually paid till since Lady-day; and, as to the other 10,000*l.* he has it now in stock in the East-India Company: That as to 5,000*l.* part of the said 30,000*l.*; one third part thereof he did design to sir Edward Seymour; one third to sir John Trevor; and the other third to Mr. Guy: That he offered the same to them by Mr. Guy; but Mr. Guy told this deponent, They did not desire to meddle with the stock, but would do any service to promote getting the Charter: And, sir Edw. Seymour after-

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wards meeting this deponent, he, the said sir Edward, chid him for that proposal; and told him, If he made any more such proffers, he would never have any thing more to do with him: That he, this deponent, did tell Mr. Guy, That the advantage to them in passing the Charter, and the act of parliament, would be worth 10,000*l.* amongst them: That he, this deponent, did intend a distribution of all the 30,000*l.* in manner following; viz. To sir Edward Seymour, Mr. Guy, and sir John Trevor, 10,000*l.* in case the Charter, and act of parliament, passed; to the Merchants Interlopers, 10,000*l.*; and to himself, 10,000*l.*: That he thought himself obliged in honour to pay two-thirds of the 5,000*l.* when received, to sir John Trevor and Mr. Guy; and the other third, which he designed for sir Edward Seymour, he, this deponent, kept for himself: That sir John Trevor did afterwards give him some hints of his expectations."

"Mr. Acton delivered in an Account in writing of several persons, among whom he had distributed several sums of money. He saith, That Mr. Wallis had a sum of money given him, which is included in Craggs' money, in his Account mentioned.

"Several of the gentlemen of the Committee of the East-India Company, that were appointed for inspecting the Books, and examining the Accounts of the Company, attended; and delivered in some Papers, drawn up in the nature of a Report, to that Company.

Examination of Sir Josiah Child.] "Sir Josiah Child, being examined, said, He never disposed of 10*l.* of the Company's money, to his remembrance; always affecting ignorance in that matter: said, He did recommend Mr. Acton, as being an honest man; and thought he might do service to the Company, in parliament, because of his acquaintance: That he did recommend it, that a present of 50,000*l.* should be made to the king, if his majesty would so far wave his prerogative, that an act of parliament might be passed for settling the Company: but Mr. Tysson told him, The king would not meddle in that matter: That he knew nothing of the 40,000*l.* paid to sir Basil Firebrace: Says, there was a kind of a Committee of 25 persons, that sat *de die in diem*, to destroy the Company; and he told sir Tho. Cook, that he thought sir Basil the fittest person to divide them."

"Mr. Atwell produced his Cash-Books; by which it appeared, that 9th Oct. 1693, Mr. Bates had received 545*l.* 6*s.* 3*d.*; 10th Oct. 2,181*l.* 5*s.*; 16th Nov. 3,275*l.*: and said, the money was paid by order of sir Tho. Cook.

"Mr. Bates, being examined again, said, He believed the money might be paid, as the Books expressed: and further owned, that he had not 4,400 guineas, in his house on Sunday night last; and that the 4,400 guineas which he paid back to sir Basil, was brought to him by M. Robart, on Tuesday morning last, eight o'clock.

"Mr. Tysson, being examined, said, that sir Tho. Cook and sir Josiah Child gave him a note, under their hands, for 50,000*l.* which was intended to be presented to his majesty, if his majesty would pass an act of parliament, as they should desire: and that he acquainted my lord Portland with the Company's intention to make such a present; who told the deponent, That the king would not meddle with it: And being asked, If he had offered the same to the lord Portland, denied that he had so done; saying, If he had, he must never have seen his face more. And the said deponent saith, That when he was examined before the house of commons, he did not take it, that the 10,000*l.* given to his majesty was included in the sum charged upon sir Tho. Cook, being before the date of any order for that money.

"Mr. Craggs, being examined, gave in an Account how he had disposed and applied 4,540*l.* with which he was charged by Mr. Acton: and denied that he ever paid any money to any member of parliament.

Debate on the above Examinations.] April 27. Mr. Comptroller Wharton made a Report from the Committee of the said Examinations by them taken; which being read, after the reading the same, the following Debates arose.*

* From "A Collection of the Debates and Proceedings in Parliament, in 1694 and 1695, upon the Inquiry into the late Briberies and Corrupt Practices." The above Tract was printed in the year 1695 with this Preface:

"It is most evident to all such who are in the least acquainted with the Greek and Roman histories, that Bribery and Corruption were the chief causes of the overthrow of those free governments. By these means Philip of Macedon ruined most of the Commonwealths of Greece, so much celebrated in ancient history. The Spartan state, which had flourished with such glory about 800 years, was soon destroyed by the corrupt use of those immense riches wherewith their Asiatic conquests had furnished them. The ruin of the Roman Commonwealth is, by all who have wrote on that subject, attributed to that corruption with which they were over-run after they became masters of Asia, and the plunder thereof. Before that time honor had been the reward of good and great actions, but then money without merit opened the door at which fools and knaves entered, when honest men could not be admitted. Then it seemed a crime to be virtuous; and that people became so degenerate, that the consulship, government of provinces, commands of armies, and every public employment were put to sale, and all carried by caballing and bribery, without any regard had to the merits of men, and their services to their country.—This occasioned that severe exclamation, 'O urbem venalem si 'emptorem invenisset!' intimating, that they would sell even the city itself, if a man were found who had a purse sufficient to make the purchase. And it is yet fresh in memory, how our own nation was brought to the very brink of destruction by the corrupt practices of the

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[*B*] stood up and said, Mr. Speaker, I conceive there is a necessity to search this matter to the bottom. The house has a thread in their hands, they ought to provide laws for the future to prevent the members of this house taking money. All imaginable endeavours have been used to stifle all discoveries. 10,000*l.* has been pretended to be given to the king. 50,000*l.* offered to buy an act of parliament, or gain their

reign of king Charles 2. Then was the time when all men of virtue, untainted probity, and love to their country, ran the hazard of being ruined. Then was the time we beheld a band of abject Pensioners in parliament, a List whereof is yet extant. Then was the time we saw our senators wearing the badge of slavery, and doing a tyrant's drudgery, for clothes and sustenance. Then was the time when no less sum than 252,467*l.* was squandered amongst those mercenary wretches in less than three years; and it is well known who was then Lord Treasurer.—Then was the time when a hungry member was sure of a Dinner* at one or other of the public tables kept about Westminster, and which very lately began to be set up again, to feed the betrayers of their country: and that they might be at hand, sir John Copleston and sir Richard Wiseman were then allowed to keep open houses at the foot of the Parliament-stairs. —So numerous were these hirelings in that illustrious body, that if any point were there carried on England's side, it was often but by the poor majority of two or three voices. And I cannot but remember upon this occasion a story (for the truth whereof I can undertake); There was a contended election in that house of commons between Mr. Trenchard and Mr. Bertie: and it being carried for Mr. Bertie, the lord O Brian, who was related to the then Lord Treasurer, came in triumph to him with the news, and said, 'My lord! we have carried the day, 'and voted thirteen more than one and twenty.' —The nation groaned under the burden of these inglorious and wicked practices, which ripened us for ruin; and to this day their sad effects are very sensibly felt. We then trafficked away the peace of Europe; and to that Corruption is owing the growth, and hitherto unsubdued power of France. If to sell the determination of any difference between private persons be held in the highest detestation, how justly execrable then do those render themselves who traffic away nations and the rights of a free-born people? We have a famous instance of the transcendent justice of our nation, in the case of the great and learned lord chancellor Bacon: he was thrown down from his high station upon an accusation of bribery, though all that then was positively proved against him was his allowing a servant to accept a present of a set of beaten silver buttons."

* The practice was, that besides a dinner, when they had done any eminent piece of service, every one found under his plate such a parcel of guineas, as it was thought his day's work had merited.

charter. The facts prove themselves, and Mr. Bates appears an unfortunate person, whom the care of his friend, the duke of Leeds, and the sense of his oath have caused to make such contradictions. I move that the house would put the matter in such a method as becomes their justice, and as the shortness of their time will allow.

[*D*] Mr. Speaker, I do fully agree with the worthy person near me, that there never were greater and more general instances of Corruption, and necessity of speedy remedy. That it is very fit this house should let the world see that they are in earnest. I ask leave to put you in mind, what practice and arts have been used to stifle and stop your discovery, so that what you have is, as it were, by the utmost force and constraint. You cannot wonder at it, when you now find so great a man at the bottom; but there is no person in a post so high that this house cannot reach, no man's practice or art so deep that this house cannot discover. Here have been all imaginary endeavours used to obstruct this enquiry. First, his majesty's name was made use of at the committees, with hopes perhaps that that might stop any farther enquiry; and if it were made use of there, you may reasonably expect it was made use of elsewhere: but that appeared to be so far from being a matter of reflection on the king, that sir Josiah Child often complained of it as a rudeness to his majesty, that what other kings had yearly as a present, they had not offered to his majesty in three years: it was indeed, if not a matter of right, a matter of custom.—Then a noble lord, who may be named for his honour upon this occasion, the earl of Portland, he when the great sum of 50,000*l.* was pressed upon him, did absolutely refuse it, and told them he would for ever be their enemy and opposer if they offered any such thing to him. I having thus mentioned the innocent, must say somewhat of the guilty. A stop having been put, the duke of Leeds must be applied to: certainly there never was a more notorious Bribery, and that in a person whom we might have expected to have been free from such a crime, whether if you respect the greatness of his place, or of his former obligation. It is fit to speak plainly on such occasions, the house ought to endeavour to remove such a person from the king's council and presence. What security can the nation have, when we are bought and sold to one another? We have seen our designs defeated, our attempts betrayed, and what wonder is it? Can any man think it more strange that our counsels should be sold abroad, than that Charters should be sold at home? Certainly a man may reasonably believe, that he who will sell the subjects, will sell the kingdom if he can have a sufficient bribe. What prince can be safe in such counsels which are given for private advantage? Several proposals for remedy may be here offered. One, that this house should address his majesty to remove the duke of Leeds; but, with submission, an Address is too mean, too low a thing for the house to do

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at this time, and upon such an occasion: I therefore move we may lodge an Impeachment. "That Thomas duke of Leeds, Lord President of his majesty's Council, be impeached by this house." Or thus, "That Thomas duke of Leeds be impeached by this house of high crimes and misdemeanors; and particularly of Corruption in taking a Bribe of 5,000 guineas to obtain a Charter and Regulation for the E. I. Company."

[*E*] says, I wonder the gentleman who spoke last should say that which I hope he did not believe, That that lord should have sold our counsels to France.

[*D*] rose again and said, It is with some uneasiness I stand up, but that gentleman forces me to it, for I do not take pleasure to rake in a dunghill. I was far from saying any such thing, but argued only from possibility; that it was as reasonable to believe one as the other. That when honour and justice were not the rule of mens actions, there was nothing incredible that might be for their advantage.

[*F*] seconds and agrees in the motion for an Impeachment.

[*G*] says, That God alone, who can produce light out of darkness, can fully discover the dark practices in this affair. That such actings as these are a blemish, if not a scandal to the Revolution itself; I agree in the motion for an Impeachment.

[*I*] Demanded, By what law it is a crime to take money at court?

[*K*] answered, If there be not a law, it is time there should be a law to prevent it.

[*L*] says, The law of God is against him, and broke by him. He took an oath as a privy-counsellor. Justice is not to be sold by the common law. But there are parliaments to punish such crimes, and it is hoped there will be still.

[*M*] says, It seems doubtful whether there be matter in this Report for an Impeachment; therefore before the house goes to an Impeachment, they ought to put the question upon the Report, and see whether it be a crime.

[*N*] objects, There is no law, so no transgression.

The Duke of Leeds voted to be impeached.] Resolved, "1. That there does appear to this house, upon the Report from the Committee of both houses appointed to examine the persons mentioned in the Report of sir Tho. Cook's Account, That there is sufficient matter to impeach Tho. duke of Leeds, President of his majesty's most honourable privy-council, of high crimes and misdemeanors."

Resolved, "That Thomas duke of Leeds, &c. be impeached of high crimes and misdemeanors."

Ordered, "That Mr. Comptroller do go up to the lords, and, at their bar, in the name of the house of commons, and all the commons of England, impeach Thomas duke of Leeds of high crimes and misdemeanors; and acquaint them, That this house will, in due time, exhibit particular Articles against him, and make good the same."

The Duke's Speech in the House of Lords] On the reading of the Report from the Lords Committee, his grace expressed himself in this manner, viz. "That as he had formerly protested himself to be free in this matter; so he still denied, upon his faith and honour, that he was guilty of any such corruptions as were suggested against him, and that if the whole truth were laid open, it would tend to his honour and advantage. That he would be very free in telling their lordships now before hand, all that passed, in which he was any ways concerned. And thereupon declared, that Mr. Bates introduced sir Basil Firebrace to him, and that he had had conferences with sir Basil upon the subject of the East-India Company, which Firebrace was concerned for. That some time after, Mr. Bates came and informed him that he was to have a sum of money of sir Basil; and desired his lordship to lend him one of his servants, Mr. Bates keeping but a footman, to receive the money, and so he lent him M. Robart. That his lordship knew nothing of the sum; but afterwards Mr. Bates came to him, and told him, he had received 5000 guineas, which he offered to him, telling his lordship that he had been very obliging and kind to him; and that, in acknowledgment of the many favours he had received from his lordship's hands, he humbly desired him to accept of them: which he refusing, Mr. Bates pressed him earnestly to take one half or a quarter; which he still refused, declaring he would not touch a penny of them; and told him, since he had taken them, he thought there was no need of returning them, they were his own, and wished him good luck with them, as I remember, said his lordship, I did once to Mr. Harry Saville, for whom I had a great respect; which reminds me of a story I must needs tell your lordships upon this occasion. He then related the story: That when he was Treasurer, the Excise being to be farmed, for which many put in, the bidders for it, who were to give in their proposals sealed up, having applied to Mr. Saville for his interest at court, he came to his lordship and desired that he would tell the gentlemen that put in, who were several, that Mr. Saville had spoke for them: What, said I, (proceeded the duke) would you have me tell all of them so, when but one is to have it? No matter for that, said Mr. Saville, for whoever has it will think I have done him this service; and I am sure of a good present, without more ado: So, my lords, when the men came, I told them one after another, sir, you are very much obliged to Mr. Saville; Sir, Mr. Saville has been very much your friend. A little after, when the thing was settled, Mr. Saville came and thanked me for what I had done: and told me he had got his present that he had expected; which I told him I was glad of, and wished him good luck with it, as I now did to Mr. Bates. 'And thus I was then a shadow to Mr. Saville, as I was now to Mr. Bates.'

The Duke's Speech in the House of Commons.] The duke had proceeded thus far in his speech

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when he received private intimation, That the commons were proceeding to impeach him: upon which he broke off somewhat abruptly; and immediately quitting the house of peers, presented himself at the door of the other house; and by the means of one of the members, caused the house to be informed, that he desired to be heard; which being complied with, he was admitted, with the usual compliments of a chair, and leave to be covered; after accepting of which he rose, and putting off his hat, expressed himself to the following effect:

"Mr. Speaker, and gentlemen of the house. In the first place, I thank you heartily for this favour of hearing me. I had attended sooner, if I had had the least intimation what the house was upon. I wish the dispatch thereof had not been so quick. The occasion of my coming is from the two Votes, upon the Report from the Committee of both houses; I did all I could to be informed of the particulars, but could not, nor have I any notes. I was earnest therein, finding myself concerned, and hearing of a Report, a monstrous long report, to the end that I might not be under the displeasure of either or both houses; it is a bold truth, but it is a truth: this house had not been sitting but for me.—I was formerly pursued by this house in two points, for being for the French interest and for popery; I had then, if I might have been heard, justified myself, as I hope I have since done, and shall by all the actions of my life. One Firebrace was introduced to me by the means of Mr. Bates whom I have long known, and if I am not much deceived in him, I cannot believe that gentleman would have transacted such a matter if put upon it. The Evidence is but hearsay, and I hope you will not condemn on hearsay. I would not take up your time by entering into particulars; but there is a Money-part, as well as a Treaty part; and as to the Money-part, much of it is false; what is true, I have made no secret. I can, and do say, that neither directly nor indirectly, upon my faith and honour, have I ever touched one penny of the money. I observe a great deal of pains has been taken to hook and draw men in this matter by a side-wind, and Firebrace thinks his merit will deserve 10,000 and 30,000*l.* This 5000 guineas was no part of the 40,000*l.* The committee called in and examined several Witnesses; but Firebrace, after his first hearing, desired to be called in again himself, contrary to all rules, which shews at least that he is a very willing witness.—I have a thread which I hope to spin finer, and make it appear that this was a design laid against me, long before the naming of this committee; that warning was given me some time since, that this matter would be proved against me, and that Firebrace had been told, he should be excused if he would charge the duke: I ask no favour but your favourable justice. It will be a most unfortunate thing in point of time, to be under the displeasure of this house, or of the nation. I pray that no severe sense be put on what will bear a candid one, and that if it may be, the house would re-consider what is done, or at least preserve me from cruelty; and not let me lie on the rack and be blasted, until the parliament shall sit again. If you will proceed, I hope it will be speedily, for I had rather want council, want time, want any thing, than be under yours or the nation's displeasure. I thank you again for this favour, and pray if you will not re-consider, that this matter may be brought to a determination, and that I may have at least your speedy justice."

This Speech being ended, and the duke withdrawn, Mr. Comptroller attended by many members, went up to the house of lords with the impeachment; and the committee who were joined with the lords, were ordered to prepare the Articles against the Lord President.

Debate thereon.] The commons taking the duke's Speech into consideration, a worthy member said,

[*D*] said, By this noble lord's Speech, the point is now, whether the house will arraign the committee of both houses, or go on with their Impeachment. This noble lord, when he came to the matter, would not enter into particulars, but passed it over with excuse of wanting time. He makes no excuse as to the facts: his argument of a contrivance was, that the 5,000 guineas charged on him, was no part of the 40,000*l.* Firebrace was to account for. But this is an aggravation of the crime; for sir Thomas Cooke had a double Account, one with, and one without the 5,000 guineas; and this is an indication, that if there was a contrivance, it was not by the committee, but with sir Tho. Cooke, to trifle the enquiry, and conceal the corruption. The speedy justice of the house is to be wished and desired. If there is such a contrivance, such a thread as is mentioned by this noble lord, it is not to be doubted but the house where he is impeached will clear him.

[*T*] moved, That a committee might be appointed to withdraw, to consider what was to be done, in order to gratify that lord by 'speedy justice.' His friend Mr. Bates's tricking and contradicting himself, is more than the evidence of Firebrace. Who was his friend? Who was his servant? Those were questions not to be asked. M. Robart was a servant of my Lord President's, and is fled. Mr. Bates said, he kept the money in his house? What was become of it? Sometimes he had spent it? Sometimes it was in his closet. He did own the money was not in his house on Sunday, but on Tuesday morning, M. Robart brought it to him; but he would never declare from whence he brought it.

In the middle of these debates, a Message was sent from the lords, to acquaint the commons, That it was the opinion of their lordships, that the Discovery made by sir Thomas Cooke was not satisfactory, nor so full as to entitle him to the benefit of the Act to indem-

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nify him, and that their lordships desired the concurrence of the commons. They thereupon passed a Vote, as the lords had done, and sent it up by the lord Coningsby.

April 29. The lords acquainted the commons that they had passed a Bill entitled, 'An Act for imprisoning sir Thomas Cooke, sir Basil Firebrace, Charles Bates esq. and James Craggs, and for restraining them from alienating their estates,' to which they desired the concurrence of the commons.

Articles of Impeachment against the Duke of Leeds.] April 29. Mr. Comptroller Wharton and others, brought up the Articles of Impeachment against Thomas duke of Leeds, Lord President; which are as follow:

ARTICLES OF IMPEACHMENT, exhibited by the knights, citizens, and burgesses in parliament assembled, in the name of themselves and of all the commons of England, against Thomas duke of Leeds, President of his majesty's most honourable privy-council, for high crimes and misdemeanours.

"1. That certain merchants trading to the East-Indies, having either forfeited their charter, or being under an apprehension that they had forfeited the same, and having made their humble applications to their majesties in council for obtaining a charter of confirmation; the said duke of Leeds, being then president of their majesties most honourable privy council, and sworn to give their majesties true and faithful advice, did, contrary to his oath, office and duty to their majesties, and in breach of the great trust reposed in him, by himself, his agents or servants, corruptly and illegally treat, contract and agree, with the said merchants or their agents, for 5,500 guineas to procure the said charter of confirmation, and also a charter of regulations, or to use his endeavours to obtain the same.—2. That in pursuance of such corrupt contract and agreement, the said duke of Leeds did, by himself, his agents or servants, receive or accept, from the said merchants or their agents, certain notes or securities, whereby he or they were empowered to receive the said 5,500 guineas upon the passing of the said charters.—3. That, soon after the passing of the said charter of confirmation, the sum of 2,500, part of the said 5,500; and soon after the passing of the said charter of regulations, the further sum of 3,000 guineas, other part of the said 5,500 guineas: were pursuant to the said corrupt contract and agreement, actually received by the said duke of Leeds, or by his agents or servants with his privity and consent. —And the said knights, citizens and burgesses, by protestation, saving to themselves the liberty of exhibiting, at any time hereafter, any other accusation or impeachment against the said Thomas duke of Leeds, and also of replying to the answer that the said Thomas duke of Leeds shall make unto the said articles, or any of them, or of offering proof of the premises, or any other impeachments or accusations that shall be exhibited by them, as the case shall (according to the course of parliaments) require; do pray, That the said Thomas duke of Leeds be put to answer the said crimes and misdemeanours, and receive such punishments as the same shall deserve; and that such proceedings, examinations, trials, and judgments, may be upon every of them had and used, as is agreeable to law and justice."*

The Duke's Speech thereupon.] The Articles being read, the duke of Leeds, repeating several things to the same effect as formerly, said "That Mr. Bates desired that he would allow him to bring sir Basil Firebrace to him; and that he bid Mr. Bates take care of sir Basil, for he took him to be a very ill man; but Mr. Bates, said, he knew him very well: so after much intreaty his lordship permitted Mr. Bates to bring him. That Mr. Bates and his lordship had had a long acquaintance and friendship, and what he did in this manner was only to befriend him. His lordship added, 'That this storm which was now fallen upon him, was some time a gathering: and it was promoted by a faction, and a party who had only a pique against him; and the king's business had been delayed on purpose. That he had an original Letter which gave him an account of this some time before it broke out; and it appeared only levelled against him, because none else were prosecuted: and there appeared a joy they could catch at this; for then they stopped; and sir Basil was treated with to discover only this part, and so he should be excused from any further discovery." His lordship concluded, praying a copy of the Articles of his Impeachment, and of the Report made by the committee to the house, which was readily granted.

The Duke's Answer to the Articles.] April 30. The lords sent a Message to acquaint the commons, That the duke of Leeds having this day put in his Answer to the Articles of Impeachment exhibited against him, their lordships have sent a copy thereof to them.

The Answer was received and read, and is as follows: 'This Defendant, saving to himself all advantages of exceptions to the said Articles, humbly saith, That he is not guilty of all or any the matters by the said Articles charged in manner and form, as the same are by the said Articles charged against him. LEEDS."

Upon the Duke's putting in the Answer, he again declared, before God, and upon his honour and conscience, that he was not guilty, and had great wrong done him in this accusation.

The Duke complains of delay, and desires

* This is the third time that Articles of Impeachment had been exhibited in the House of Commons against the duke of Leeds. The first was in 1675, upon which the house resolved, "That there was not sufficient matter contained in them to impeach the Lord Treasurer. See vol. iv. p. 693. The next was in 1678, upon which lord Danby was impeached, to which impeachment he pleaded the king's pardon. See vol. iv. p. 1067.

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his Impeachment may be discharged.] May 1. The lords sent a Message to the commons to acquaint them, that they think themselves obliged in justice to put the house in mind of the Impeachment against the duke of Leeds, to which the duke's Answer having been transmitted to them, the lords desire to be acquainted when they can be ready to make good the Articles of Impeachment, to the end a certain day may be appointed by the lords for that purpose.

Upon this, the Commons ordered, "That the Answer of the duke of Leeds, to the Articles of Impeachment against him, be referred to the consideration of the Committee, to whom it was referred to draw the said Articles of Impeachment: and that they do consider what is to be done thereupon, according to the course of parliaments; and report the same to the house."

May 2. The Duke complained in the house of lords of the delay of the house of commons, in not replying to his Answer, alledging, that the Impeachment was only to load him with disgrace, and that they never intended to try him. And added, 'That the party used great partiality towards him, and did not intend to enquire after others: that they shewed a mark of their partiality and spleen, in their Amendment to the Bill for imprisoning sir Thomas Cooke, sir Basil Firebrace and the others; sir Basil was to be bailed because he was the witness against his lordship.'

The offering of Money to a Member voted a High Crime and Misdemeanor.] This day the commons Resolved, 'That the offer of any money, or other advantage, to any Member of Parliament, for the promoting of any matter whatsoever, depending, or to be transacted, in parliament, is a high Crime and Misdemeanor, and tends to the subversion of the English Constitution.'

May 3. A motion being made in the house of lords, to read the Bill for granting to the king a duty upon Glass, &c. the duke of Leeds rose up and told the lords, 'That it grieved him, that he, who was as much as any man for the dispatch of the Money bills, and never opposed any, should now do it; but he hoped the lords would consider his case, not only as his, but the case of any of their lordships; for it was in the power of a tinker to accuse at the end of a session, and one might lie under it without remedy: and since that they, by mismanagement, had delayed this Money-bill for six weeks, it would not be of mighty ill consequence if it should lie a day or two longer. His lordship pressed very earnestly, that if the house of commons did not reply, the Impeachment might be discharged; for, if it were not, he might lie under the reproach thereof all his life. He believed the commons would do nothing in it; for tho' they had appointed a Committee to meet, they met but once, and that for form, and never met more, nor would do any thing in it.'

The same day the commons, at a Conference, delivered a written Paper to the lords, signifying, "That the commons will make good the Charge against the duke of Leeds, in manner and form as in the Articles mentioned, and that the Committee who were appointed to draw the said Articles, have been daily employed in looking into Evidence against the duke; and that in the preparation of the Evidence they meet with an obstruction, that Monsieur Robart, who appeared by the Depositions before the Committee of both houses to be a material witness, is withdrawn since the Impeachment was carried up; which has been the reason the commons have not yet acquainted your lordships when they can be ready to make good the said Impeachment, the commons being desirous that justice be done without any manner of delay."

The Paper being brought into the lords house, and read, it was moved and agreed, without any debate, or any opposition made by the duke of Leeds, that an Address should be made to the king, to issue a Proclamation for stopping the ports and seizing M. Robart. The duke, in assistance to the house, told them, that it was requisite to insert the person's Christian name, and said his name was John, his sirname being Robart.

The Duke of Leeds arraigns the Conduct of the Commons.] The Duke then rose up, and blamed the house of commons, for doing an unheard-of, an unprecedented thing, to charge a man with crimes, and to say they were ready to make it good, before they had all the Evidences; and now they should say they wanted a material witness, and lay it upon him to produce this witness; as if a person were obliged more to produce evidence to accuse him, than to answer such questions by which he accuses himself. His lordship then proceeded to acquaint the house, that in truth, he had sent M. Robart to see his daughter Lempster, who went into the country big with child; and ordered him to call at Minns to see his daughter Plimouth, it being in his way to his daughter Lempster's, where the messenger of the house of commons might have known he was gone if he had asked. That his lordship, that there might be no mistake, sent a messenger on purpose for Robart. That his footman waked him about two of the clock on Sunday morning, (for which he was very angry) to let him know Robart was come, and was in the house, which was as soon as he could possibly return: That his lordship told the footman he would go to sleep, and would speak with Robart in the morning, when he usually call'd him; but when his lordship ask'd for him in the morning, the footman said he was gone; and, upon enquiry, he found Robart did not lie nor pull off his boots in his chamber: That the footman said, he ask'd whether the news was true, that this lord was impeach'd, and Mr. Bates was in prison; which the footman own'd to be true; and his lordship believes that frightened Robart. That his chaplain shewed him a Letter from Robart, with a desire to acquaint his lord, that he design'd for his own country,

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Switzerland, through Holland; from whence he would write his lord a true account of all the matter of the 5500 guineas to Mr. Bates. That his lordship knew, by the manner of his writing, by the man, and by a particular knowledge he had of him and of the thing, that he would not be seen here again in haste. So that, my lords, (said his grace) if this man be insisted upon as a material Evidence, and that my Trial is to be delay'd till this person is forthcoming, when am I to be tried? I humbly move your lordships, that you will come to some Resolution, that if this matter be not immediately proceeded upon, so that I may be try'd before the ending of this session, that the Impeachment shall fall.

Upon which some few lords cried, 'Well moved *.'

The Parliament prorogued.] However, the lords read and passed the Bill that same day, for the Duty upon Glass, &c. and his majesty came to the house and gave the royal assent to several Bills, and among the rest to the Bill for imprisoning sir Thomas Cooke, sir Basil Firebrace, Bates and Craggs; and also to a Bill entitled, 'An Act for the king's most gracious and free Pardon †,' but with this exception, amongst others; 'Except also all persons who have been or shall be impeached in parliament during this session.'

And then his majesty commanded the Lord Keeper to prorogue the parliament to the 18th of June, and it was prorogued accordingly ‡.

Proceedings relative to the Lancashire Plot.] Before we specify the Bills passed this day, or the gracious Speech from the Throne, it will be proper to give a short account of some other parliamentary transactions, which have not as yet been mentioned. Towards the beginning of this session, the popish Lancashire Gentlemen, instead of acknowledging the lenity of the present government, endeavoured to represent the legal prosecution of some of their party as a state-trick, and the contrivance of some courtiers to enrich themselves by the ruin of others; and submitted the whole matter to the examination of the house of commons. It will be proper therefore to premise a brief Account of their design to subvert the Government, and of the Proceedings against them, in order that a right notion may be formed of the grounds of the clamour against those Proceedings.—On 15th June, 1694, Lunt, an Irishman, made his discovery, and deposed before sir John Trenchard, Secretary of State: "That he had followed the late king James into France, and thence into Ireland: that from Ireland he was sent into England, with commissions from that king to certain gentlemen in Lancashire, Cheshire, &c. to raise war against king William and queen Mary: that he and George Wilson, his guide, delivered those commissions to whom they were directed; whose names he mentioned in his Narrative. That, at the instance and proper costs of those gentlemen, to whom he had delivered commissions, he bought arms, and listed and subsisted many for the service of the late king James, in order to an invasion and insurrection in that country. That he was twice sent by those gentlemen into France to the late king, to signify their readiness, and receive his further commands; and that, when he was in London, besides his employment of

* "Surely that out-cry of theirs was rather a mark of scorn than approbation: for though the duke, by sending away his servant, had deprived his adversaries of that legal proof which was necessary to conviction, enough had appeared to prove him guilty in the opinion of the whole world: and if any thing could be added to the reproach which he had brought on his character, on the high office he possessed, and the government he served, it was the solemn protestation of innocence he had set out with, and the contumacious demand of a speedy Trial, which he knew neither could or would take place." Ralph.

On the 24th of June 1701 (two complete Parliaments having intervened) the house of lords, taking notice "That the Commons having impeached Thomas duke of Leeds, of high crimes and misdemeanors on the 27th of April, 1695; and on the 29th of April exhibited Articles against him, to which he had answered; but the Commons not prosecuting, Order, 'That the said Impeachment, and the Articles exhibited against him, be dismissed.'"

† "Burnet, who, speaking of the Act of Grace, which passed at the close of the session, takes care to remember, it contained an 'Exception as to Corruption,' acknowledges 'the whole discovery was let fall: And,' continues he, 'it was believed too many of all 'sides were concerned in it; for, by a common 'consent, it was never revived.'" Ralph.

‡ "On the 3d of May, when it was known to both houses, that the king would, in a few hours, put an end to the session, the prosecutors seemed to be in more haste than ever to overtake justice, and the prosecuted to manifest his innocence. Moreover, to carry on the feint of a prosecution, and thereby to save appearances, they ordered the Report of the Committee to be read; and not only affected to proceed against other persons therein named, but actually moved for an Impeachment against sir John Trevor: and when a motion was made to adjourn, by those, it must be supposed, who were either ashamed of such a mockery, or unwilling that their adversaries should derive any benefit from it, over-ruled it by a considerable majority. Lastly, when the Paper delivered to the lords, by the Chancellor of the Exchequer, was reported to the house, it was moved and agreed, without any debate, or any opposition from the duke of Leeds, That an Address should be made to the king, to issue a Proclamation for stopping the ports, and seizing M. Robart, which was accordingly done; though, it ought not to be forgot, that the Proclamation was not published till nine days afterwards." Ralph.

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buying arms, and listing soldiers, he helped some Jacobites over into France, and secured others, who came from thence, who, all of them, told him, that generally sir John Friend furnished money for those expeditions, and paid subsistence-money to them as soldiers." This Evidence was confirmed by the testimony of George Wilson, who guided and assisted Lunt in the delivery of king James's commissions, and by the depositions and affidavits of several persons, some at a great distance from, and utter strangers to one another, all agreeing in the most material circumstances of the Lancashire Conspiracy.

The Government being fully informed of the Plot, warrants were issued out to seize the conspirators; and though, for the greater secrecy, the names of the offenders were not put into the warrant at the secretary's office by those who drew the warrants, but were afterwards put in by the secretaries themselves, yet, by some treacherous correspondence, the Lancashire gentlemen had notice given them of all proceedings at London. Upon this they burnt their commissions, buried their arms and other warlike equipage under-ground, and most of them fled from their habitations. However, through the extraordinary care and diligence of captain Baker, and others employed in that service, some of the plotters were apprehended, and arms enough found to convince the world, that there was a treasonable design on foot against the government. There was likewise found in Mr. Standish's closet, at the search made at Standish-hall, on the 16th of July, 1694, the draught of a Remonstrance or Declaration, to be printed and published at king James's landing; which, according to Mr. Crosby's Papers, and Mr. Robinson's Depositions, was to be attempted very speedily.

As many of the persons accused, as could be apprehended, being brought up to London, and examined, were, some of them committed to the Tower, and others to Newgate, where they continued about a month. During this time, their friends and solicitors exerted all their skill and diligence to take off the king's evidence, both by offering them large sums of money, as was attested by Mr. Baker, Mrs. Hearst, Mr. Clayton, Mr. Brown, and Mrs. Elliot; and that failing, by finding out persons, who would represent the king's witnesses under heinous characters, that the Jury might give no credit to their deposition. Many persons were practised upon, some of whom refused so base an action; but others, through great importunities and promises of large rewards, were prevailed with to defame the king's evidences, both at Manchester, and in the Parliament-house. But that, which raised the great clamour against the discovery of the Plot, was the gaining one Taffe, alias Thomas O Mullen, an Irishman, to the other side; which happened in this manner.—In Dec. 1693, Lunt came from France, and being, as he afterwards pretended, troubled in conscience, for having engaged in the barbarous design of assassinating the king, resolved to atone for that crime, by discovering all he knew, that had been acted, or was then plotting against his majesty. His coming over was made known to Mr. Taffe, a familiar acquaintance of Lunt's wife, and who was represented to Lunt as a person, that had done some considerable service to the public.* To him Lunt's wife had told, that her husband was lately come out of France; which made Taffe, who pretended to be zealous for the government, inquire how matters stood at St. Germains? adding, that, if Lunt could discover any thing, that might be serviceable to their majesties, he would introduce him to a person, that would receive his information. Lunt gives credit to Taffe, shews his willingness to make a discovery, and thereupon Taffe brings him to the earl of Bellamont, and vouches for his honesty. After his lordship had heard Lunt's relation, he commanded him to wait on him again in two or three days; which Lunt obeying, and his lordship being somewhat indisposed, he sent Lunt with a letter to sir John Trenchard. Taffe accompanied him thither, and the Secretary, hearing what Lunt had to discover, first sent him into Kent, and afterwards commanded him to put his depositions into writing, and bring them to him. Lunt performed it; Taffe heard all the information read, aggravated the crimes, and appeared the most forward of any to have the persons accused brought to justice; and, pretending to be serviceable in knowing the country and people there, he went down into Lancashire with Mr. Aaron Smith and Mr. Baker, and assisted the king's messengers in searching at Standish-Hall, and other places.

Taffe shewed an extraordinary zeal in his majesty's service, but might have been much more useful than he was in finding concealed arms and persons, if he had made more use of his head and less of his fingers. The managers of that affair, and the king's messengers, quickly perceiving his pilfering practices to be very injurious to the inhabitants, and no less scandalous to themselves, were forced to have as

* "Taffe was an Irish priest, who had not only changed his religion, but had married in king James's time. He came into the service of the present government, and had a small pension. He was long in pursuit of a discovery of the impostore in the birth of the prince of Wales, and was engaged with more success in discovering the concealed estates of the priests and the religious orders, in which some progress was made. These seemed to be sure evidences of the man's sincerity, at least in his opposition to those, whom he had forsaken, and whom he was provoking in so sensible a manner. This is mentioned chiefly to shew, how little that sort of men are to be depended on. He possessed those, to whom his other discoveries gave him access, of the importance of this Lunt, and was very zealous in supporting Lunt's credit, and in assisting him in his discoveries." Burnet, ii. 142.

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watchful an eye upon him, as upon the business they were employed in; though, notwithstanding all their care, he committed some grosś felonies. Soon after he came to London, he waited on the lord Bellamont, gave his lordship an account of what persons and arms had been seized, that several gentlemen had made their escapes, and that others absconded to secure themselves: whereupon the lord Bellamont asked Taffe, if this was the business, which Lunt had discovered? Taffe answered, it was, and that Lunt was the main evidence of the Conspiracy; was very well known at the respective places, which he had mentioned in his depositions; and had done greater service at his being there, if the Lancashire gentlemen had not received notice from London of their coming ten days before they came to Standish-Hall. This account being given to the lord Bellamont, Taffe addressed himself to Mr. Aaron Smith and captain Baker, for the reward of his service; but finding himself slighted and reprimanded for his scandalous behaviour, he grew angry, and resolved to revenge himself upon the government, even to the spoiling of the plot. The friends, relations, and solicitors of the prisoners were no sooner acquainted with his design, but the bargain was struck, and his terms agreed to: 20*l.* were paid him in hand, with assurance (as was afterwards sworn in the house of lords) of a good annuity for life, to be settled in Lancashire; and, lest he should cool, he was immediately sent into the country to be their counter-evidence, when the trials should commence at Manchester.

Having thus gained Taffe, and got from unwary Lunt the names of the king's witnesses, and the whole matter of the evidence, the next attempt for defeating the whole Plot was engaging Ferguson to write in defence of the Lancashire gentlemen, and to asperse their accusers; and this stratagem had such a notable effect, that the popish mob at Manchester animated by reading Ferguson's paper (which was almost in every hand in that country) had resolved to prevent the trials of the prisoners, by stoning the king's evidences to death. But those, who knew they would be acquitted, prevailed with the mob to forbear the execution of that inhuman resolution till the trials were ended. And indeed, no sooner were the trials over, and the witnesses leaving the town, but the mob endeavoured to stone them to death, and in such a violent and tumultuous manner, that not only the witnesses, but a gentleman of council for the king, the king's prosecutor, and the king's clerk in the crown-office, very narrowly escaped with their lives.

The Trials began at Manchester the 16th of Oct. 1694, where the king's evidence proved, "That the prisoners at the bar had received commissions from the late king James, to raise war against the present government; and to that end had bought arms, listed and subsisted soldiers at their own charge, &c." It is affirmed, that sir Wm. Williams, though then one of the council for the king, endeavoured to baffle and confound the king's witnesses, by asking them several frivolous questions; but failing in that, he required Lunt to point at the several prisoners by name. In doing this, Lunt happened to point at a wrong man, which mistake might be occasioned by the crowd. However, this gratified the popish mob, and raised a loud laugh. But their mirth continued not long; for, another of the judges commanding Lunt to touch and name all the accused gentlemen with the cryer's staff, he named them all right.—Witnesses were afterwards produced for the prisoners, but nothing was alledged by them, that could invalidate the king's evidence, except Taffe's testimony, who boldly declared, "That there was no truth in the pretended Plot, the whole being a villainous contrivance between himself and Lunt;" which single Declaration, without any oath, outweighed the testimonies of the ten positive witnesses for the king; and thereupon sir Wm. Williams, the chief manager of the trial, sat down in the court, and would examine no more witnesses against the prisoners. And so, without calling for the rest of the evidence, the matter was let fall; and, when the Judges gave the charge to the Jury, it was in favour of the prisoners; so that they were acquitted, and those, that were ordered to be tried after them, were all discharged without trial.

The whole party triumphed upon this as a victory, and complained both of the ministers of state and of the judges; and sir Wm. Williams, being returned to London, represented the Plot as a wicked and horrible contrivance; upon which the government, in abhorrence of such a design, immediately ordered the witnesses to be prosecuted for a Conspiracy against the lives and estates of the Lancashire and Cheshire gentlemen. This strange turn being given to the affair, many of the wiser sort of those, who were friends to the accused gentlemen, and dreaded the consequence of a further inquiry, advised them to sit down quietly, and leave it to the government to punish their accusers, if they saw fit; but some lawyers overruled this advice, and so the Lancashire and Cheshire gentlemen, on the 24th of November 1694, brought the affair into the house of commons.

While this affair was depending, several witnesses were procured against the king's evidences in Parliament, by downright bribery, and by telling them, that they were not to be put to their oaths; and therefore, not being in danger of perjury, might safely and confidently tell all the stories, that were dictated to them. Indirect means were also used to asperse the earl of Macclesfield, at that time lord-lieutenant of the county of Lancashire, who, being a professed friend to the government, was, of consequence, thought by the Jacobites their mortal enemy.

The house of commons, after several hearings, strict Examinations, and long Debates, which continued at the several appointed times, the space of eleven weeks, on the 6th of Fe-

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bruary, proceeded farther in reading the information and papers delivered into the house by Mr. Aaron Smith, touching the late proceedings and Trials in Lancashire and Cheshire. Mr. Lunt's information was read; as also Mr. Wilson's and Mr. Wombell's; and other papers delivered into the house by Mr. Aaron Smith were likewise read; among which were several printed papers. Whereupon the house came to the following Resolutions. 1. "That there did appear to the house, That there was sufficient grounds for the prosecution and trials of the gentlemen at Manchester. And, 2. That upon the informations and examinations before this house, it doth appear, That there was a dangerous Plot carried on against the king and government." At the same time the commons ordered an act of the pretended parliament of Ireland, held in the year 1689, recognizing the late king James, and two proclamations of that abdicated prince, to be burnt by the hands of the common hangman. Besides this, the house, after having given an order for the taking Mr. Standish of Standish-Hall in Lancashire into custody, and their messenger reporting, that he was not to be found, addressed the king to issue out a proclamation to apprehend him.

This disappointment in the house of commons was no small mortification to the Jacobites; yet, in hopes of better success, they laid their complaints also before the House of Peers, where, after examining some witnesses, and in my debates, the question being put, Whether the government had sufficient cause to prosecute the Lancashire and Cheshire Gentlemen? It was carried in the affirmative; though the earls of Rochester and Nottingham appeared with great zeal on the other side, and in conclusion protested against the vote, by which the lords justified the proceedings against those gentlemen.

The accused gentlemen, notwithstanding these disappointments, at the next Lancaster assizes in August 1695, brought on trials upon an information of perjury against Lunt, Womball, and Wilson, three of the king's witnesses, who were all found guilty; and afterwards indicted for a conspiracy against the lives and estates of those gentlemen. But, the gentlemen refusing to furnish the king's Attorney and Solicitor General with witnesses to prove the pretended perjuries, the prosecution was let fall, and Lunt, Womball and Wilson discharged.*

Case of Baronies by Writ.] On the 16th of March, the Heralds being heard at the bar of the house of peers, in relation to Descents of Baronies by writ: after debate this question was put. Whether if a person summoned to a Parliament by writ, and sitting, die, leaving issue two or more daughters, who all die, one of them only leaving issue, such issue has a right to demand a summons to parliament? It was resolved in the affirmative.

* Tindal.

Protest thereon.] The lords following dissent for these reasons: "1. Because, we conceive, it is more suitable to the methods of all courts of justice, and therefore particularly more proper for this supreme court, to give judgment in particular cases, when they are brought to be tried before them, than to make a general rule, which possibly may not comprehend all future accidents, that may be liable to many great inconveniences that cannot be foreseen, and which, in its nature, seems to be a matter fitter to be provided for by a law than a judgment. 2. Because there were several precedents offered to be produced, to shew that the practice, upon several occasions, had been directly contrary to this rule, and because the heralds, who, we conceive, disproved the printed precedents, were not allowed time to produce precedents to shew where baronies descending to several daughters were extinguished, and new creations of those titles given to others. 3. Because, we conceive, this general rule now made is in opposition to a judgment solemnly given by this house, upon hearing council on all sides, in a particular case lately referred by the king; and grounded on a bare motion made by some lords, who, we conceive, were no ways concerned in that judgment. 4. Because the last rule does likewise seem to us to be repugnant to the judgment of this house in the case between the earl of Oxford and lord Willoughby of Eresby, then referred to this house by king Charles I, and by their lordships thought fit to be referred to the consideration of the judges, as a matter of that importance that deserved their assistance; who, upon mature deliberation, returned their opinion to their lordships in these words, (viz.) 'As to the baronies of Bulbeck, Sandford, 'and Badlesmere, our opinion is, that the same 'descended to the general heirs of John the 'fourth earl of Oxford, who had issue John 'the fifth earl of Oxford, and three daughters; 'one of them married to the lord Latimer, 'another to Winckfield, and another to Knight-'ley: Which John the fifth earl of Oxford 'dying without issue, those baronies descended 'upon the said daughters as his sisters and 'heirs: but those dignities being entire, and 'not dividable, they became incapable of the 'same, otherwise than by gift from the crown, 'and they, in strictness of law, reverted unto, 'and were in the disposition of king Henry 8, 'and yet nevertheless, we find that four several 'earls of Oxford successively, after that descent 'to three daughters, as heirs males of the said 'earldom, assumed and took upon them those 'honours and titles in their writings, leases and 'conveyances; and their eldest sons have been 'stiled, in the life-time of their fathers, by the 'name and title of lord viscount Bulbeck, and 'so reputed to be, and the house did vote that 'the baronies were in his majesty's disposition, 'and, in their report to the king, did declare, 'that for the baronies, they were wholly in his 'majesty's hand to dispose at his own pleasure.' 5. Because, we conceive, that it is not in

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the power of this house, either to explain or repeal an act of parliament, though a private act, in a judicial manner, but only in our legislative capacity; and there being an act passed in 15 Charles 2. No. 15, for settling the lands of the earl of Kent, which disposes of the barony of Lucas of Crudwell, and declares the king's power to dispose of the barony, when more than one female heir, to whom, or to which he pleases, or to hold in suspense, or to extinguish the same; we cannot but think this vote is in direct opposition to that act. (Signed) Norfolk and Marshal, Herbert, Stamford, J. Bridgewater, Rochester, Torrington, Brooke, Scarborough."

The Speech of the Marquis of Normanby in the Affair of the Convex Lights.] On the 18th of April, the house of lords taking into consideration the several Examinations and Reports made and taken relating to the Convex-Lights, and a Lease of Land lately made by the city of London to the marquis of Normanby, * his lordship rose up and expressed himself as follows:

"Your lordships have shewn me so much justice, and favour, and patience, in your examination of this whole business, at my humble request, that I should make an ill return, if I wasted your time unnecessarily: And therefore I will not trouble you with observation on those unusual methods, odd aggravations, and inexcusable delays, that some few persons have openly practised in this debate. I will not, I need not insist upon it; your lordships have all taken notice of it sufficiently; and the truth is, such an over-eagerness in a very small number against the opinion of the rest, instead of hurting me, only exposes themselves. Yet I am sorry for this odd manner of proceeding, notwithstanding all the advantage it has given me; because it has also given occasion for a malicious suspicion in this censorious town, as if I had done these lords some sort of private injury; of which yet I am so innocent, that they will not add it to their other accusations against me, I am confident.—Neither will I take up your lordships time with recriminations: I confess it is hard to hold, when it is so easy to do it; the subject is ample enough, and your lordships will not think it so unbecoming a gentleman to return an accusation, as it was to be the first accuser; but though never so much tempted, I have too much respect for this great assembly to entertain you so ill.—The only thing I shall trouble you with, is the defence of what a man cannot be too careful of, my honour; and accordingly shall tell your lordships a true story very plainly. If I should fail in any thing, it would be no wonder, since I have neither used council without-doors, nor troubled you with any here; being of opinion any man is able to speak truth without any assistance.—About four years ago I designed to build a house, and therefore disposed of that I lived in to the Spanish ambassador; enquired every where for ground; treated with Mr. Neale for his, beyond Berkley-house, and with others also; but at last fixed on that spot of ground you have now heard so much of. Upon my proposing it to those concerned, I found two difficulties; first, the title was so perplexed, there was no buying without an act of parliament to clear it; the second was, that the inheritance of this ground, after 74 years, is in the city of London. I endeavoured to overcome the first of these difficulties, by procuring an agreement among the proprietors in the present lease of 74 years, in order to have an act of parliament; and for the other, I treated with the city, desiring only four acres in all, for a house, a court before it, and a small garden behind it. I think, the first time I proposed it, was here, in the bishop's lobby, to sir —— Hubland, sir R. Clayton, and three more of the city altogether, who then assured me the inheritance could be parted with. Upon this I desired a lease of 150 years; which yet was refused; and after many months I obtained one of 100 years only.—While this was treating about a twelve-month, one of the city officers brought me Articles to sign; of which one was, that the lease should be void, unless I procured an act of parliament to pass for settling all matters about it; wherein some clauses of his penning might be inserted for the city's advantage. The condition appeared so unreasonable to me, who was only one of the many parties that were to consent to such a private act, before ever the parliament, I knew, would pass it, that in a little heat I told this small officer, Mr. Lane, the worthy witness, that it must be his own proposal, and too extravagant a one to come from the city, who had never asked such a condition. Mr. Lane grew excessive angry, as the other person, then present, has sworn; and very perily told me, he was not to be ruffled out of his care for the city, by any subject whatsoever; and yet, to pacify the good man, who might, by his place, do ill offices by a misrepresentation, I agreed, not that an act should pass, though a private one, but only that I would, as a party, give my consent to it, as soon as all the other proprietors did so too. But the true reason why I refused his proposal, was not for the least doubt I had of your lordships passing the bill, which now lies on the table ready drawn by Mr. Fouiks, who sent it at my request, but only because, in justice, your lordships require all parties agreement to any private bill, which, I feared, so many of them would hardly be persuaded to; and then my grant from the city was to have been void, if I had signed his fine proposal.—To make an end of a long story, the city granted the lease at last, and it lies also on the table, full of covenants so much to the city's advantage, and so little to mine, there being some articles of charge to me, besides the rent, that I have sold to the lord Jefferyes, for 100 guineas, this great present of the city, of which

* John Sheffield, earl of Mulgrave, created marquis of Normanby May 10, 1693, and duke of Buckingham and Normanby March 9, 1702.

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some have made such a noise, because it is of no use to me, without building my house; which design fails only for want of the mortgagee's being able to make a sure title; and they are not enough agreed to get an act to pass about it. Upon this I will make a few remarks, and so conclude. First, The value of this is, you see, so very inconsiderable, that it alone answers all suspicion about it: For though a bribe of a mere bawble is inexcusable; yet when circumstances are examined in order to judge if it be a bribe, or not, I suppose a plain gold ring is not to be suspected as much as a diamond of 1000 pounds.—The next objection vanishes, about my undertaking for this act, when it is considered how many instances there are every day of members in both houses, who article, not only as I have done, to endeavour at, but also to procure a private act of parliament; because, indeed, they can be understood to mean no more by it, than to consent themselves, to persuade others what they can, and sometimes to pay the fees of the clerks, which, in this very lease, I am obliged to free the city from, whenever the act passes.—The length of the lease is as odd a cavil as the rest; since 100 years is certainly as proportionable a term for such a great house, as forty years for a little one, especially considering how slightly they build little ones now a days.—Whereas there was some mention of my obliging the city about Gulston's bill; I confess, my memory did not lay that value upon it, as it seems their gratitude did, who owned the obligation. It appears to have been a private bill which invaded the city of London's rights; against which I delivered their petition, and made the matter so plain, that your lordships threw out the bill.—It happened very lately, that an honest country gentleman heard, only by accident, of an act's being like to pass, which had undone him. I fancy, if any lord had stopped it, either out of good-will to him, or justice, the gentleman would call that lord his friend ever after, and drink his health too, in spite of all his enemies. Consider also the open manner of the whole proceeding with a great city, for at least a year together, without interruption. Each clause stood upon with all strictness, and every article disputed by council before them. Before a committee of twelve common-council men and six aldermen, deputed to manage such things. Carried at last there, (I desire your lordships will take notice of that remark, because of a great estate lost here lately by equal votes) not by an equality; if so, I should not wonder at a review taken of it; for things carried in that kind will be talked of, and perhaps once more considered. But this was done, my lords, by a great majority; it was sworn here at your bar that there were but three against it, and they too own to your lordships themselves, it was only because they thought the ground worth ten pounds a year more; which being after 70 years to come, is to be valued at a year's purchase; so I have a notable bargain of ten pounds, according even to their oaths, who crossed me in it, because indeed influenced by that city-officer.—Observe also, if you please, my lords, the city sent their officers several times to view this ground, by which one of my opposers owned here he was at last convinced, that it was a good bargain for the city, upon account of their pipes and buildings.—And now, my lords, I have reserved to the last, what alone would vindicate this business. This very ground is in trustees names, for the city, one of whom is an infant; so, they could make me no legal title before he comes to age, and I have only an equitable one to depend on. Therefore, when this is to be confirmed and made valid, the city must be under other governors, who will never, sure, confirm an ill thing done by these; and they cannot be compelled to it, but in the court of Chancery; which must then review all this whole proceeding.—As to the Convex Lights, your lordships have seen I am not the least concerned; but it falls out unluckily for my accusers, that they pretend I am too much regarded by so great a city for assisting them on all occasions, which I shall ever be proud of, and yet all the while blame me for stopping their Orphan's Bill by my only interest here: A direct contradiction! I have troubled your lordships too long about so slight a matter; which indeed was unnecessary; for though it happened once that many misdemeanors amounted to a treason, I am confident a thousand slanders out of the mouth of what great man soever, will never here be able to give a suspicion of misdemeanor, unless of himself who slanders.—My Lords; I am too often entertaining your lordships on all other occasions; and perhaps should be too apt to do it in my own case, especially if any lord should either object, or recite amiss; which in this debate has been found not impossible. I ask your leave therefore to withdraw; not doubting but in such a case, my innocence will be safe under your lordships protection, and much better defended than if I were here myself to look after it."

Protest against acquitting the Marquis of Normanby from Censure for these matters.] After debate, the question was put, 'Whether upon the Examination taken in relation to the Matter of the Convex Lights, while the Orphans Bill was depending in this house, or concerning a Lease of some lands lately passed to the lord marquis of Normanby, by the city of London, there does appear any just cause of censure from this house, upon the said lord marquis of Normanby?' It was resolved in the negative.

"Dissentient. Because we humbly conceive it to be an offence of an high and extraordinary nature, that any peer should presume to deliver the opinion of this house, without doors, to persons whose cause has been pleaded at this bar, so as to induce them to compound their interest, or oblige them to unwilling compliances, more especially, in a matter depending before us, in a bill agreed to by the house of commons. Which we humbly conceive to have been plainly made out against the marquis of Normanby, by the

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depositions of Mr. Hobbs, sir Thomas Millington, Mr. Nois, and Mr. Lilly.—Mr. Hobbs having informed this house, upon oath, that he was absent and sick, and resolved to come to an agreement with Hutchinson, but that sir Thomas Millington had some time afterwards given him this account, that the marquis of Normanby came out several times from the house of lords, assuring him the bill would not pass, unless an agreement were immediately made with the said Hutchinson, which, with the clamours without doors, were the reasons that compelled him, and those others that signed, to agree.—Sir T. Millington having declared, upon oath, that he was forced and compelled to sign the aforesaid agreement, by frequent intimations and assurances given by the marquis of Normanby, that the bill should, or would not pass, unless he and his partners did agree with Hutchinson, as likewise by the clamours, without doors, of those concerned for the passing of the Orphans bill.—Mr. Nois (agent for the Orphans) likewise deposing, that he heard the marquis of Normanby tell sir Thomas Millington, the bill would be lost, unless the aforesaid agreement was concluded; both affirming that no other member of the house of lords, to their knowledge, gave any such intimation or account. Mr. Lilly also deposing, that all present were forced to sign a paper (which he hoped would prove no agreement) because they were compelled to it by the tumults at the doors of the house of lords, being afraid of violence from the Orphans agents and solicitors, in case they had not signed it.—Which irregular proceedings of the marquis of Normanby, we conceive, fully proved by witnesses of undoubted reputation, who acted in pursuance of the account they gave upon oath; which are the more remarkable, because it appears that Roman Russell, servant and agent to the said lord, had one 32d part made over to him immediately before the hearing in the house of lords; which share was assigned to Mr. Moore, by Mr. Hutchinson, to be made over for the promoting his interest in parliament, and was, to that purpose (as the writing testifies) disposed of to Roman Russell, which, we conceive, by the proofs valuable 2,000*l.* Which share, Mr. Moore deposes, was given to Roman Russell, and Russell confesses to have received for no other consideration (but having been servant to many lords) to solicit and apprize them of the case; yet it appears, by his own confession, he knew not the merits of the cause, nor could name any other lord, whom he had applied to, but the marquis his master, who brought in the petition for Hutchinson, Roman Russell having acquainted him he had a concern with him.—We likewise protest against the Vote, in relation to the second part of it, which concerns the lease made by the city to the marquis of Normanby. Because we conceive it a present avowedly given to the said marquis, for gratifying him for services done to the city, in the house of lords, and for the expectation of like services for the future, and by him received as such; which we are humbly of opinion is sufficiently proved, and in such manner, as we apprehend, is highly to the dishonour of this house. First, This appears by the entries in the city books, where it was agreed by the committee of the city lands, to demand an extraordinary power of the common council, to grant a lease under such extraordinary conditions, as were not agreeable to their common methods: in which entry, the only motive and agreement that appears in the books is expressed in these words, viz. 'Com' Concil' tent' 24 Die Jan. '1693. At a Common Council a motion was 'made for gratifying a person of honour, who 'had been very friendly to the interest of the 'city, in the house of lords, and likely to con-'tinue so, with a long term of years, in about 'two or three acres of the city ground lying and 'being in Conduit-mead, behind Clarendon-'house. The question being put, Whether this 'court will empower the committee, for settling 'and demising the city lands, to grant unto the 'said lord an additional term in the said ground, 'at and under such rents, covenants and con-'ditions as the said committee shall approve 'of? It was carried in the affirmative, and re-'ferred to the said committee accordingly.'—As likewise the same is again entered in the Books in the last determination of the committee for city lands, as the only motive to induce them to make such a grant, in these words; viz. 'It being, by special order of this honourable 'court, referred to us, in order to the gratifying 'a person of honour, who hath been very friend-'ly to the interest of the city in the house of 'lords, and is likely to continue so, &c. And 'signed by sir Robert Clayton, and several of 'the parties consenting to this lease, who were 'summoned as witnesses by the marquis of Nor-'manby.'—It being further made evident (as we humbly conceive) by the oaths of Mr. Lane the city comptroller, Mr. Morrice a member of the house of commons, and Mr. Ballow one of the committee, who depose, the arguments made use of for this lease, in several meetings of the committee, were, the services done, and like to be done the city, by the marquis of Normanby; particular mention being made in their depositions, of his assistance in flinging out Gulston's bill, and his helping that of the Orphans.—And we further conceive (with great deference to this honourable house) that the motives and considerations, sworn by several of the committee men, who were consenting to such grant or lease, as inducements to them to pass it, appear, upon examination, to be no valuable considerations: —As to the building a great house of 30 or 40,000*l.* upon the lands, the securing their water pipes, the obtaining several years arrear of rent, the making a brick drain: which alledged considerations seem to us of no weight; the marquis being under no covenant in his lease, to build such house; the pipes for their water being secured for seventy years to come by their former lease; the arrears having been paid, not by the said marquis, but by the tenants under the first lease, when demanded.—And moreover, in our humble opinion, there is

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little room to doubt but that the said lease was given and taken as a gratification; Mr. Lane giving it in upon oath, from the marquis of Normanby's own mouth, that he looked upon the lease, as a present to him, from the city, for his kindnesses and services; and that they were suitors to him, not he to them.—Finally, We are the rather convinced of it, because the depositions of Mr. Lane, Mr. Morrice, and Mr. Ballowe, are suitable to the entries in the city books, which most of the evidence summoned for the marquis of Normanby have set their hands to; where no mention is made of those other matters sworn by them, as considerations inclining them to grant such lease. Induced by these parts of the evidence recited; (having entered the whole upon our book) that nothing might be concealed which may any way tend to the justification of the noble lord concerned, and for the reasons aforesaid; we protest against this vote; not being able to satisfy ourselves, that this high court of honour and judicature had no just grounds to pass some censure on the marquis of Normanby, upon the evidence given to this house, on the matters of the convex lights and city lease.—(Signed) Weymouth, Manchester, Essex, Ailesbury, Torrington, Stamford, Monmouth, Cholmondeley."

The ill state of the Coin redressed.] A great thing was done this session for the honour and interest of the nation, by redressing the bad State of the common Coin of the kingdom. This difficulty lay so heavy upon the government, that a stop was almost put to trade and taxes. The current silver coin had for many years began to be clipped and adulterated; and the mischief of late had been so secretly carried on, by a combination of all people concerned in the receipt of money, and so industriously promoted by the enemies of the government, that all pieces were so far diminished and debased, as that five pounds in silver specie was scarce worth 40 shillings, according to the standard: beside an infinite deal of iron, brass, or copper, washed over, or plated. The nation had suffered most grievously by this evil, and the cure of it could be no longer delayed, without apparent and inevitable ruin to the public, and an obstruction to all private commerce. Under this necessity, the house of commons on the 8th January appointed a Committee to receive Proposals, how to prevent clipping of the Coin of this kingdom for the future, and the exportation of silver.

Mr. Scobel's Report concerning the Coinage.] This Committee having sat several times, Mr. Scobel on the 12th March reported their opinion: viz. "1. That the best way to prevent clipping the silver-coin, was to new coin the same into milled money. 2. That 1,000,000*l.* was a sufficient sum to make good the deficiency of the present clipped coin of this kingdom. 3. That the Money hereafter to be coined should be of the present weight and fineness. 4. That the crown piece should go for 5*s.* and 6*d.* and the half crown for 2*s.* and 9*d.* 5. That all money to be coined, under the denomination of the half-crown, should have a remedy of six pence in the ounce. 6. That for as much of the present coin as any person brought into the mint, he should have weight for weight, and the overplus by a bill or ticket at —— per cent. on a fund to be appropriated for that purpose. 7. That the present laws against clipping be enforced by some additions. 8. That all persons whose professions require such like tools or engines, as may be made use of for coining or clipping, be obliged to register their names and places of abode, and that it should be penal on such as should neglect to do the same. 9. That it be penal to all such persons, as give more for any silver-coin, than it ought to go for by law. 10. That it be penal to all such persons on whom clippings are found. 11. That no presses, such as are used for coining, be in any other place than his majesty's mint. 12. That it be penal in all such persons as shall import any clipt or counterfeit money. 13. That it be penal in any person to export English bullion, and the proof to lie upon the exporter. 14. That it be penal in any person to counterfeit any foreign mark upon bullion."

This Report lay some time neglected in the house of commons; till the lords had passed an Act 'To prevent counterfeiting and clipping the current Coin of this kingdom;' and on March the 19th sent it down to the commons for their concurrence. Then the former Resolutions of the Committee were taken into consideration, and out of them several Amendments were inserted in the Lords Bill; to which Amendments the lords agreed, and so made that most expedient Act ready for the royal assent.

The King's Speech at the close of the Session.] May 3. The king came to the house of peers, and gave the royal assent to the act 'For Duties on Glass Wares, Coals and Culm.' An Act 'for a general Pardon.' An Act 'to prevent counterfeiting and clipping the Coin.' An Act 'for imprisoning sir Thomas Cook, sir Basil Firebrace, Charles Bates, esq. and James Craggs, and restraining them from alienating their estates.' But a clause was inserted to enable sir Basil Firebrace, who was then about marrying his daughter to the earl of Denbigh, to give her a sum not exceeding 20,000*l.* in portion. After which his majesty closed the Session with the following Speech:

"My lords and gentlemen; I am come to give you thanks for the Supplies provided for carrying on the war, in which we are engaged, and at the same time to conclude this Session, which cannot be continued longer, without manifest prejudice to the ends, for which these Supplies are given; the season of the year making it so necessary for me to be abroad, that it were to be wished our business at home would have allowed me to have been there sooner.—I will take care to place the administration of affairs during my absence, in such persons on whose care and fidelity I can en-

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tirely depend: and I doubt not, my lords and gentlemen, but every one of you in your several stations, will be assisting to them. This is what I require of you, and that you be more than ordinarily vilgiant in preserving the public peace."

Then the Lord-Keeper, by his majesty's command, said, "My lords and gentlemen, It is his majesty's royal will and pleasure, that this parliament should be prorogued to Tuesday the 18th of June next; and this parliament is prorogued accordingly."

Promotions.] The same day the parliament was prorogued; the king declared in council, That he had appointed the archbishop of Canterbury, sir John Somers Lord Keeper of the Great Seal, the earl of Pembroke Lord Privy-Seal, the duke of Devonshire Lord Steward of his majesty's houshold, the duke of Shrewsbury one of his majesty's principal Secretaries of State, the earl of Dorset Lord Chamberlain of his houshold, and the lord Godolphin first Commissioner of the Treasury, to be lords justices of England, for the administration of the government during his majesty's absence; and at the same time sir Wm. Trumbal was constituted one of his majesty's principal Secretaries of State, in the room of sir John Trenchard, lately deceased. The next day the lord Henry Capel was appointed lord deputy of Ireland: and on the 8th of the same month, his majesty created William de Nassau seigneur de Zulestein, a baron, viscount and earl of this kingdom, by the name and stile of William Zulestein, baron of Enfield, and earl of Rochford; and the lord Grey of Werke was also made a viscount and earl of this kingdom by the stile of viscount Glendale, and earl of Tankervile.

The Parliament dissolved.] On the 12th of May the king set out for Holland. Abroad, the taking of the town and castle of Namur in the sight of the enemy's army, 100,000 strong, was the most important action; after which his majesty left the army under the care of the elector of Bavaria, arrived in England October 10, and the next day he called a Council, wherein he proposed the dissolving the present Parliament, which after a small debate being resolved upon, a Proclamation was ordered to be published for that purpose; and for declaring the speedy calling another to be holden the 22d of November ensuing.*

* "The king had obstinately struggled against the Triennial bill, not only to avert an encroachment, as he believed, upon his prerogative, but from the apprehension of not finding a new parliament obsequious to his will, particularly in adopting his system of foreign politics, and approving of the continuance of the war. But, as there was no prospect of bringing it to a conclusion before the definitive expiration of the present parliament, there occurred obvious and strong reasons for anticipating that event. However great the influence of the court in the present parliament had been, yet it was naturally to be expected, that the immediate prospect of dependance upon their constituents would operate upon the members, to the diminishing of that influence, and induce those, who wished to maintain their political distinction, to humour the prejudices of the people, rather than to study the inclinations of the sovereign, or to pursue more liberal views of public good. The dissolution of parliament, impatiently desired by the people, would be reckoned a gracious exertion of the prerogative, and strengthen the interest of the crown at the approaching general election. But what, perhaps, as much as any of these considerations determined the king to dismiss his second parliament, was that perplexity and interruption to public business, which he foresaw would arise, at a season eminently critical, from those disagreeable Inquiries into which the commons had entered, with respect to the Corruption of some of their members, and from which they could not recede, without forfeiting all claim to honour and consistency." Somerville.

FIRST SESSION OF THE THIRD PARLIAMENT OF KING WILLIAM III.

List of the House of Commons.] November 22, 1695. This day the New Parliament met at Westminster. The following is a List of the Members of the House of Commons:

A LIST of the HOUSE OF COMMONS, in the Third Parliament of King WILLIAM, November 22, 1695.

Those marked with a * at first declined the Association.

Abington,
*Simon Harcourt.
Agmondesham,
Edmund Waller,
Montagu Drake.
St. Alban's,
George Churchill,
Sir Samuel Grimstone.
Aldborough, (Suffolk)
Sir Henry Johnson,
William Johnson.
Aldborough, (Yorkshire)
Christopher Tancred,
Sir Michael Wentworth.
Allerton, North,
Sir William Holster,
Thomas Lascels.
Andover,
John and Robert Smith
Anglesea,
Richard visc. Bulkley.
Appleby,
Sir Richard Sandford,
Sir John Lowther.
Arundel,
Lord Walden,
Edmund Dummer.
Ashburton,
William Stawell,
Richard Duke.
Aylesbury,
James Herbert,
Sir Thomas Lee.
Bambury,
Sir Robert Dashwood.
Barnstaple,
Arthur Campneys,
Nicholas Hooper.
Bath,
Sir Thomas Estcourt,
William Blaithwayt.
Beaumaris,
*Sir William Williams.
Bedfordshire,
Edward Russel,
William Duncomb.
Bedford Town,
William Farrar,
Thomas Hillersden.
Bedwin,
Sir Ralph Delaval,
Francis Stonehouse.
Berkshire,
Richard Nevil,
Sir Humphrey Forster.
Berwick,
Ralph Gray,
Samuel Ogle.
Beverly,
Sir Roger Wharton,
Michael Wharton.
Bewdley,
Salway Winnington.
Bishops Castle,
Charles Mason,
Richard Moore.

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Bletchingly,
Maurice Thomson,
Thomas Howard.
Bodmin,
John Houblon,
Russel Roberts.
Boralston,
John Elwill,
John Smith,
Boroughbridge,
Thomas Harrison,
Sir Henry Goodrick.
Bossiny,
George Booth,
*John Manley.
Boston,
Peregrine Bertie,
Sir William Yorke.
Brackley,
Charles Egerton,
Henry Mordaunt.
Bramber,
*William Stringer,
Nicholas Barbone.
Brecon County,
Sir Rowland Gwyn.
Brecon Town,
Jeffrey Jeffreys.
Bridgwater,
William Palmer,
Roger Hoare
Bridport,
Nicholas Carey,
Sir Stephen Evans.
Bristol,
Sir Thomas Day,
Robert Yates.
Bridgenorth,
Sir Edward Acton,
Sir William Whitmore.
Buckinghamshire,
Sir Richard Atkins,
Thomas Wharton.
Buckingham Town,
Sir Richard Temple,
*Alex. Denton.
Calne,
Henry Blake,
George Hungerford.
Cambridgeshire,
Edward Russel,
Lord Cutts.
Cambridge Town,
John Pepys,
Isaac Watlington,
Cambridge University,
George Oxenden,
Henry Boyle.
Camelford,
Robert Molesworth,
Ambrose Manaton,
Canterbury,
George Sayer,
Sir William Honeywood.
Cardiff,
Thomas Mansel.
Cardigan County,
John Vaughan.
Cardigan Town,
John Lewis.
Carlisle,
James Lowther,
William Howard.
Caermarthen County,
Sir Rice Rudd.
Caermarthen Town,
Richard Vaughan.
Caernarvon County,
Sir William Williams.
Caernarvon Town,
Sir Robert Owen.
Castle-rising,
Edward Walpole.
Sir Robert Howard.
Chester County,
Sir Robert Cotton,
John Mainwaring.
Chester Town,
Richard Leving,
*Sir Thomas Grosvenor.
Chichester,
Lord Ranelagh,
William Elson.
Chippenham,
Walter White,
Alexander Popham.
Chipping,
Charles Godfrey,
Thomas Lewis.
Christ's Church,
Lord Cornbury,
William Etterick.
Cirencester,
*Richard How,
*John How.
Clifton,
Sir Joseph Herne,
William Hayne.
Clithero,
Christopher Lister,
Ambrose Pupsey.
Cockermouth,
Sir Charles Gerrard,
Woodwyn Wharton.
Colchester,
Sir John Mordon,
Sir Isaac Rebow.
Corf-Castle,
William Culliford,
*Richard Fownes.
Cornwall,
John Speccot
Hugh Boscawen.
Coventry,
*George Bohun,
Thomas Gerey.
Cricklade,
Charles Fox,
Edmund Webb.
Cumberland,
Sir John Lowther,
Sir George Fletcher.
Denbigh County,
Sir Richard Middleton.
Denbigh Town,
Edward Brereton.
Derbyshire,
Marquis of Hartington,
*Sir Gilbert Clark.
Derby Town,
Lord Cavendish,
John Barnold.
Devizes,
Sir Edward Ernly,
John Methuen.
Devonshire,
*Francis Courtney,
Samuel Rolle.
Dorchester,
Nathaniel Bond,
Nathaniel Napier.
Dorsetshire,
*Thomas Strangeways,
*Thomas Freke.
Dover,
Sir Basil Dixwell,
James Chadwick.
Downton,
Charles Duncomb,
Sir Chas. Rawley.
Droitwich,
Edward Harley,
Charles Cox.
Dunwich,
Henry Hevingham,
Sir Robert Rich.
Durham County,
Sir William Bows,
William Lambton.
Durham City,
Charles Montagu,
Henry Lyddell.
Enstlow,
Henry Trelawny,
Charles Trelawny.
Edmunds Bury,
John Harvey,
Sir Robert Davers.
Essex,
Sir Francis Marsham,
Sir Charles Barrington.
Evesham,
*Henry Parker,
Sir James Rushout.
Exeter,
Edward Sayward,
Joseph Tilly.
Eye,
Charles Cornwallis,
Thomas Davenant.
Flintshire,
Sir J. Conway.
Flint Town,
Sir R. Pullestone.
Fowey,
Thomas Vivian,
*Bernard Granville.
Gatton,
Thomas Turgis,
Sir John Thompson.
Germains, (St.)
*Henry Fleming,
*Daniel Elliot.
Glamorgan,
Bussey Mansel.
Gloucestershire,
Sir John Guise,
Sir Ralph Dutton.
Gloucester City,
Robert Payne,
William Trye.
Grampound,
Hugh Fortescue,
John Tanner.
Grantham,
Sir John Brownlow,
Sir William Ellis.
Grimsby,
Arthur Moore,
Sir Edward Askew.
Grimstead,
John Conyers,
*Sir Thomas Dyke.
Guildford,
Morgan Randell,
Foot Onslow.
Harwich,
Sir Thomas Devall,
Sir Thomas Middleton.
Haslemere,
George Woodroff,
George Bridges.
Hastings,
John Pulteney,
Robert Austin.
Haverford West,
William Wogan.
Helston,
Francis Godolphin,
Charles Godolphin.
Herefordshire,
Sir Herbert Crofts,
Sir Edward Harley.
Hereford City,
James Morgan,
Paul Foley.
Hertfordshire,
Thomas Halsey,
Sir Thomas Blunt.
Hertford Town,
Sir William Cowper,
William Cowper.
Heydon.
Lord Spencer,
Sir William Trumbal.
Heytesbury,
Edward Ash,
William Ash.
Higham,
Thomas Andrews.
Hindon,
Charles Morley,
Robert Hyde.
Honiton,
Sir William Drake,
Sir Walter Yonge.
Horsham,
Henry Yates,
John Mitchel.
Huntingdonshire,
Henry Montagu,
Anthony Hammond.
Huntingdon Town,
John Pocklington,
Richard Montagu.
Hythe,
Jacob Desboverie,
Sir Philip Boteler.
Ilchester,
Francis Windham,
Henry Hunt.
Ipswich,
Sir John Barker,
Charles Utting.
Ives, (St.)
John Mitchel,
James Praed,
Kellington,
*Francis Gwyn,
*Sir William Coryton.
Kent,
Philip Sidney,

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Sir Thomas Roberts.
Kingston upon Hull,
William St. Quintin,
Charles Osborne,
Knaresborough,
* Robert Byerly,
William Stockdale.
Lancashire,
James Stanley,
Ralph Ashton.
Lancaster Town,
Thomas Preston,
Roger Kirkby.
Lanceston,
William Carey,
* Lord Hyde.
Leicestershire,
John Verney,
George Ashby.
Leicester Town,
Arthur Palmes,
Sir Edward Abney.
Leominster,
John Duttoncolt,
Thomas Coningsby.
Leskard,
William Bridges,
Sir Bouchier Wray.
Lestwithiel,
Samuel Travers,
Sir Bevil Greenville.
Lewes,
Henry Pelham,
Thomas Pelham.
Lincolnshire,
* Lord Castleton,
Sir Thomas Hussey.
Lincoln City,
* Sir John Bolles,
William Monson.
Litchfield,
Sir Michael Biddulph,
* Robert Burdet.
Liverpool,
William Norris,
Jasper Mordit.
London,
Sir Robert Clayton,
Sir John Fleet,
Sir Samuel Dashwood,
Sir Thomas Vernon.
Ludlow,
Thomas Newport,
Charles Baldwin.
Ludgershall,
Thomas Neal,
John Webb.
Lyme-Regis,
Robert Henley,
Henry Henley.
Lymington,
Thomas Dore,
John Burrard.
Lynn-Regis,
Sir John Turner,
Sir Charles Turner.
Maidstone,
* Sir John Banks,
Sir Thomas Taylor.
Malden,
Irby Montagu,
* Sir Eliab Harvey.
Malmsbury,
Craven Howard,
Henry Wharton.
Malton,
Sir William Strickland,
William Palmes.
Marlborough,
* William Daniel,
* Thomas Bennet.
Marlow,
* Sir James Etheridge,
Charles Chace.
Mawes, (St.)
* Seymour Tredenham,
* John Tredenham.
Melcomb Regis.
John Knight,
* Thomas Freke.
Merioneth,
Sir John Wynne.
Midhurst,
* Sir Wm. Lukener,
* John Lukener.
Middlesex,
Sir John Wolstonholm,
Edward Russel.
Milbourn-Port,
* Sir Thomas Travel,
* Sir Charles Carteret.
Minehead,
* John Stamford,
Henry Lutterel.
Michael, (St.)
Thomas Vivian,
Hugh Courteney.
Monmouthshire,
Sir Charles Keymes,
Thomas Morgan.
Monmouth Town,
John Arnold.
Morpeth,
Sir Henry Bellysis,
George Newland.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
Price Devereux.
Newark upon Trent,
Francis Molineux.
George Markham.
Newcastle under Line,
John Lawton,
Sir John Levison Gower.
Newcastle upon Tine,
Sir William Blacket,
William Carr.
Newport, (Cornwall)
William Morrice,
* Lord Cheney.
Newport, (Hants)
Lord Cutts,
Sir Robert Cotton.
Newton, (Lancashire)
* Leigh Banks,
* Thomas Brotherton.
Newton, (Hants)
John Worsley,
* Thomas Done.
Norfolk County,
Sir Henry Hobard,
Sir Jacob Astley.
Northamptonshire,
Thomas Cartwright,
Sir Andrew St. John.
Northampton Town,
Sir Justinian Isham,
Chr. Montagu.
Northumberland,
* William Forster,
Philip Bickerstaff.
Norwich,
Francis Gardiner,
Thomas Blofield.
Nottinghamshire,
John White,
Sir Scroop How.
Nottingham Town,
Charles Hutchinson,
Richard Slater.
Okehampton,
Thomas Northmore,
John Burrington.
Orford,
Sir Adam Felton,
Thomas Felton.
Oxfordshire,
* Montagu lord Norris,
* Sir Robert Jenkinson.
Oxford City,
* Sir Edward Norris,
* Thomas Rowney.
Oxford University,
* Hon. Heneage Finch,
* Sir Will. Trumbula.
Pembrokeshire,
Arthur Owen.
Pembroke Town,
Sir John Philips.
Penryn,
James Vernon,
Alexander Pendarvis.
Peterborough,
Gilbert Dolben,
Sir William Brownlow.
Petersfield,
Robert Mitchell,
Richard Holt.
Plymouth,
John Grenville,
George Parker.
Plimpton,
Sir Thomas Trevor,
Courtney Croker.
Pool,
Sir Nathaniel Napier,
Anthony Lord Ashley.
Pontefract,
Sir Will. Lowther,
Robert Monkton.
Portsmouth,
Nicholas Hedger,
John Gibson.
Preston,
Sir Thomas Stanley,
John Molineux.
Queenborough,
Robert Crawford,
Thomas King.
Radnor County,
John Jeffreys.
Radnor Town,
Robert Harley.
Reading,
Sir William Rich,
Sir Henry Fane.
Retford,
John Thornhaugh,
Richard Taylor.
Richmond,
Thomas York,
Sir Marmaduke Wyvill.
Rippon,
John Aislaby,
Jonathan Jennings.
Rochester,
Sir Cloudsley Shovel,
Sir Joseph Williamson.
Rumney,
Sir William Twisden,
John Brewer.
Rutland County,
Lord Burleigh,
Bonnet Sherrard.
Rye,
Sir John Austin,
Thomas Frewen.
Ryegate,
Roger James,
* John Parsons.
Salop County,
Hon. Rd. Lord Newport,
* Edw. Kynaston.
Salop Town,
* John Kynaston,
* Andrew Newport.
Saltash,
Francis Buller,
Walter Moyle.
Sandwich,
Thomas Taylor,
Edward Barnard.
Sarum, New,
Sir Thomas Mompesson,
Thomas Hoby.
Sarum Old,
Thomas Pitt,
William Harvey.
Scarborough,
Lord Irwyn,
Sir Charles Hotham.
Seaford,
Henry Champion,
William Lowndes,
Shaftsbury,
Sir Edward Nicholas,
Sir Michael Andrews.
Shoreham,
Henry Priestman,
John Perry.
Somersetshire,
* Sir John Smith,
* Sir John Trevillion.
Southampton County,
Ch. marq. of Winchester,
Richard Newton.
Southampton Town,
Sir Charles Wyndham,
Sir Benj. Newland.
Southwark,
Charles Cox,
Anthony Boyer.
Staffordshire,
Henry Paget,
* John Gray.
Stafford Town,
Thomas Foley
Philip Foley.
Stamford,
Philip Bertie,
Charles Bertie.

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Steyning,
Sir John Fagg,
Sir Edw. Hungerford.
Stockbridge,
Anthony Sturt,
John Venables.
Sudbury,
John Robinson,
Thomas Barnard.
Suffolk,
Sir Harvey Elwys,
Sir Samuel Barnardiston.
Surry,
Denzil Onslow,
Sir Richard Onslow.
Sussex,
Sir John Pelham,
William Thomas.
Tamworth,
Thomas Guy,
* Sir Henry Gough.
Tavistock,
James Russel,
Robert Russel.
Taunton,
Sir William Portman,
* John Sandford.
Tewkesbury,
Richard Dowdeswell,
Sir Francis Winnington.
Thetford,
* Sir John Wodehouse,
Sir Joseph Williamson.
Thirsk,
Sir Godfrey Copley,
Richard Staines.
Tiverton,
Charles Spencer,
Thomas Bere.
Totness,
* Edw. Seymour,
Edward Yard.
Tregony,
Francis Roberts,
James Montagu.
Truro,
John Cloberry,
Henry Vincent.
Wallingford,
* William Jennings,
Thomas Tipping.
Warwickshire,
William Bromley,
Andrew Archer.
Warwick Town,
* Francis Grevill,
* Lord Digby,
Wareham,
Thomas Trenchard,
Thomas Erle.
Wells,
William Coward.
* Edward Berkeley.
Wendover,
Richard Beke.
John Blackwell.
Wenlock,
William Forrester,
* George Weld.
Weobly,
* Robert Price,
Thomas Foley.
Westbury,
Peregrine Bertie,
Richard Lewis.
Westlow,
James Kendall,
John Mountstevens.
Westminster,
Charles Montagu,
Sir Stephen Fox.
Westmoreland,
Sir Richard Stratford,
Sir John Lowther.
Weymouth,
Maurice Ashley,
Michael Harvey.
Whitchurch,
Christopher Stokes,
Lord Russel.
Winchelsea,
Richard Austin,
Samuel Weston.
Winchester,
Frederick Tilney,
Lord Pawlet.
Windsor,
Lord Fitzharding,
William Scawen.
Wilton,
Sir John Hawles,
John Gantler.
Wiltshire,
Thomas Hungerford,
Henry St. John.
Woodstock,
* James Bertie,
Sir Thomas Littleton,
Wooton Basset,
Thomas Jacob,
* Henry Pynnil.
Wygan,
* Sir Roger Bradshaw,
* Peter Shackerly.
Worcestershire,
Edward Sandys,
Thomas Foley.
Worcester City,
William Bromley,
* Samuel Swift.
Yarmouth, (Norfolk)
George England,
Samuel Fuller.
Yarmouth, (Hants)
Anthony Morgan,
* Henry Holmes.
Yorkshire,
Sir John Kay,
Lord Fairfax.
York City,
Sir William Robinson,
Toby Jenkins.

Speaker to this Parliament, PAUL FOLEY.

Mr. Foley chosen Speaker.] Nov. 22. The parliament having met according to the writ of summons, and the king being seated on the throne, the commons were sent for up, to whom my Lord Keeper signified his majesty's pleasure, that they should forthwith proceed to the Choice of a Speaker. After which the commons returned to their house, and unanimously made choice of Paul Foley, esq. who being presented the next day, his majesty did graciously approve of him.

The King's Speech on opening the Session.] His majesty then made the following Speech to both houses:

"My Lords and Gentlemen; It is with great satisfaction that I meet you here this day; being assured of a good disposition in my parliament, when I have had so full proofs of the affection of my people, by their behaviour during my absence, and at my return.—I was engaged in the present War by the advice of my first parliament; who thought it necessary for the defence of our Religion, and for the preservation of the Liberties of Europe.—The last parliament, with great chearfulness, did assist me to carry it on; and I cannot doubt but that your concern for the common safety will oblige you to be unanimously zealous in the prosecution of it: and I am glad that the advantages which we have had this year, give us a reasonable ground of hoping for further success hereafter.—Upon this occasion, I cannot but take notice of the courage and bravery the English troops have shewn this last summer; which, I may say, has answered their highest character in any age: and it will not be denied, that, without the concurrence of the valour and power of England, it were impossible to put a stop to the ambition and greatness of France.—Gentlemen of the House of Commons; I think it a great misfortune, that, from the beginning of my reign, I have been forced to ask so many and such large Aids of my people; and yet, I am confident, you will agree with me in opinion, that there will be at least as great Supplies requisite for carrying on the War by sea and land this year, as was granted in the last session; the rather, because our enemies are augmenting their troops; and the necessity of increasing our Shipping does plainly appear. The Funds which have been given, have proved very deficient: The condition of the Civil List is such, that it will not be possible for me to subsist, unless that matter be taken into your care: And compassion obliges me to mention the miserable circumstances of the French Protestants, who suffer for their religion: and therefore, gentlemen, I most earnestly recommend to you, to provide a Supply suitable to these several occasions. I must likewise take notice of a great difficulty we lie under at this time, by reason of the ill state of the Coin; the redress of which may perhaps prove a further charge to the nation: but this is a matter of so general concern, and of so great importance, that I have thought fit to leave it entirely to the consideration of my parliament.—I did recommend to the last parliament, the forming some good Bill for the encouragement and increase of Seamen: I hope you will not let this session pass without doing some-

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what in it; and that you will consider of such laws as may be proper for the advancement of Trade; and will have a particular regard to that of the East Indies, lest it should be lost to the nation: and, while the war makes it necessary to have an army abroad, I could wish some way might be thought of to raise the necessary recruits, without giving occasion of complaint.—My desire to meet my people in a new parliament, has made the opening of this session very late; which I hope you will have such regard to, as to make all possible dispatch of the great business before you; and will call to mind, that, by the long continuance of the last session, we did not only lose advantages, which we might have had at the beginning of the campaign, but gave the enemy such an opportunity as might have proved very fatal to us: and I am the more concerned to press this, because of the great preparations which the French make, to be early in the field this year.—My Lords; I have had such experience of your good affections; and I have such an entire satisfaction in the choice which my people have made of you, Gentlemen of the House of Commons; that I promise myself a happy conclusion of this session, unless you suffer yourselves to be misled into heats and divisions: which, being the only hope our enemies have now left, I make no doubt but you will entirely disappoint, by your prudence and love to your country."

Addresses of both Houses.] Both Houses, in their respective Addresses, with great zeal and unanimity, congratulated the glorious success of his majesty's arms abroad, and his safe return home; and likewise returned his majesty Thanks for the trust and confidence he reposed in their affections; assuring him, that they would support his majesty and his government against all his enemies foreign and domestic, and effectually assist him in the prosecution of the present war, in which he was engaged for the safety of England, and liberty of Europe. The Commons Address being presented by the whole house, his majesty gave them this Answer:

The King's Answer.] "Gentlemen, I heartily thank you for the marks you give me of your affection: our interests are inseparable, and there is nothing I wish so much as the happiness of this country, where God has placed me."

Bill for regulating Trials in Cases of Treason.] Nov. 26. The Bill 'for Regulating Trials in Cases of Treason and Misprision of Treason,' which had been several times lost in the former parliaments, was again brought into the house of commons, and in a short time read three times there, and sent up to the lords for their concurrence, by which many hardships upon the liberty of the subject were removed, or mitigated: for it was hereby enacted, "That all persons indicted for High Treason, or Misprision of it, shall have a copy of the indictment five days before their Trial, and shall be admitted to make their defence by councils learned in the law, not exceeding two. That no person shall be indicted or attainted, but by the oaths of two lawful witnesses. That no person shall be prosecuted, unless the Indictment be found within three years after the offence committed. That all persons indicted shall have copies of the Jury two days before their trial; and shall have like process to compel their witnesses to appear before them, as is usually granted to witnesses against them." To this Bill the lords added the Clause they had always insisted upon; "That upon the Trial of any peer or peeress for treason or misprision, all the peers who have a right to sit and vote in parliament, shall be duly summoned 20 days at least before such Trial, and shall not vote without first taking the Oaths appointed by the Act 1 W. & Mary, and subscribing and repeating the Declaration mentioned in the Act made 30 Car. 2:" which Clause was agreed to by the commons.*

Nov. 30. The many Protections given to the servants of Parliament-men, and the taking men into custody upon complaints of the breach of those Protections, was really become a grievance to the subject; and therefore it was ordered, "That all Protections and written Certificates of the members of this house be declared void in law, and be forthwith withdrawn and called in, and that none be granted for the future; and that if any should be granted by any member, such member shall be liable to the censure of this house; and that the privileges of their menial servants be observed according to law; and that, if any menial servant shall be arrested and detained contrary to privilege, he shall, upon complaint thereof, made to the Speaker, be discharged by order from him: and that no person shall be taken into custody upon complaint of any

* "It is remarkable, that, while this Bill was depending in the lower-house, the lord Ashley, afterwards earl of Shaftsbury, and author of the Characteristics, who was then a member of that house, and very zealous for the Bill, and particularly that part of it, which allows Council to a prisoner, had prepared a speech in its behalf, which those, to whom he shewed it, thought a very proper one on the occasion. But, when he stood up to speak it in the house of commons, the great audience so intimidated him, that he lost all memory, and was unable to proceed. The house, after giving him a little time to recover his confusion, called loudly upon him to go on, when he proceeded to this effect: "If I, sir (addressing himself to the Speaker) who rise only to give my opinion on the Bill now depending, am so confounded, that I am unable to express the least of what I proposed to say; what must the condition of that man be, who without any assistance is pleading for his life, and under apprehensions of being deprived of it?" This sudden turn of wit, which by some was imagined to be premeditated, though it really was not, is said to be of service in promoting the Bill." Gen. Dict. Hist. and Crit. vol. ix. p. 179.

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breach of privileges of this house, before the matter be first examined; which order was not to extend to any breach of privilege upon the person of any member of this house."

The Supplies granted.] The next thing to be considered was the Supply for the year 1696. The demand was still very high, and there was a great arrear of deficiencies; however all was readily granted, amounting to 5,024,853*l.* and lodged on Funds that seemed to be very probable; viz.

	£.
For the Navy - - - - - - - -	2,500,000
For two Marine Regiments - - -	16,972
For the Army consisting of 87,440 men, horse, foot and dragoons -	2,007,881
For the Ordnance, &c. - - - -	500,000
	£. 5,024,853

Pursuant to that part of the king's Speech relating to the Civil List, and to the distressed condition of the French Protestants, the commons also settled a Fund for raising 500,000*l.* for the Civil List, and 15,000*l.* a year for the French Protestants.

The Funds for raising the Supplies and Civil List were, 1. A land-tax of 4*s.* a pound. 2. Duties continued upon wine and vinegar, tobacco, East-India goods, and other merchandizes, from 1698 to 1701. 3. Additional duty upon all French goods, wines 25*l.* a tun, brandy 50*l.* a tun, vinegar 15*s.* a tun, all other French goods 25*l.* per cent. ad valorem, for the term of twenty-one years. 4. Duties upon low-wines, or spirits of the first extraction. 5. Duties continued upon salt, glass-wares, tobacco-pipes, &c.

Proceedings on the ill State of the Coin.] The lords were considering that part of the king's Speech that related to the Ill State of the Coin, and had drawn up an Address, to which, in a conference, they desired the concurrence of the commons, who chose rather to proceed in their own way, by appointing a Committee, who should have power to consider of a Fund to make good the deficiency of the clipt Money. And here the great question was, Whether it was necessary or expedient to recoin the Silver-Money? The Country-party held the negative; the Court-party the affirmative; and the arguments were weighed on both sides. The Reasons against calling in, and recoining the Money were, "That this was no fit juncture for it, while the nation was engaged in a burthensome and doubtful war, by which the kingdom had already greatly suffered, and of which it grew every day more sensible. That therefore the people, on whose good affection the government so much depended, should not be provoked by fresh Grievances, greater than any they had yet felt, as those would certainly be, that must arise from the calling in the Silver-Coin. That if this was done, however things might be managed and accommodated at home, it were impossible to maintain the commerce or the war, abroad; for neither the merchant could be paid his bills of exchange, nor the soldier receive his subsistence. That this was to lay the ax to the root, and to dig up the foundation of the government. That if this design was prosecuted, trade must stand still for want of mutual payments; whence such disorder and confusion would certainly follow, as would discourage and dishearten the people in the highest measure, if not drive them to a perfect despair, as despair would to the most terrible extremities. That therefore the recoining the money at this time was by no means to be attempted without hazarding all."

It was alledged by those of the contrary opinion, at the head of whom appeared Mr. Charles Montague, Chancellor of the Exchequer, "That the mischief would be fatal, if a present remedy was not found out and applied. That by reason of the ill State of the Coin, the change abroad was infinitely to the nation's prejudice. That the supplies that were raised to maintain the Army would never attain their end, being so much diminished and devoured by the unequal change, and exorbitant Premiums before they reached the camp. That this was the unhappy cause that the guineas advanced to 30*s.* and foreign gold in proportion: That therefore to the nation's great loss, not only the Dutch, but indeed all Europe sent that commodity to this market, and would continue to do so, till the nation should be impoverished and undone by plenty of gold. That we must exchange for their gold our goods, or our silver, till at last we should have only guineas to trade withal; which no body could think our neighbours would be so kind to receive back, at the value they were at here. That therefore this disease would every day take deeper root, infect the very vitals of the nation; and, if not remedied, would soon become incurable. That our enemies must be mightily intimidated by so great an action, and would sooner be induced to agree to honourable terms of peace, in case they saw us able to surmount this difficulty, by the retrieving the ill State of the Coin, on which their hopes of the nation's speedy ruin so much depended; and that it would justly create a mighty esteem abroad, of the greatness and wisdom of the parliament of England, which was able to conquer such an obstinate and almost insuperable evil, in such a juncture of affairs."*

* The sad state of the money appears from the printed report containing, "An Essay for the amendment of the Silver Coins, London 1695." The author first computes all the silver money coined in the reigns of Elizabeth, James 1, and Charles 1.

	£.	s.	d.
The silver sterling monies coined in the reign of Eliz. exclusive of some base Irish monies, amounted to - - - -	4,632,932	3	2¼
The silver monies coined in the reign of James 1. are computed at - - -	1,700,000	0	0

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These matters being fully debated, the Parliament resolved to call in and recoin the Silver-Money, chusing rather to run the hazard of some great inconveniences, than by a longer neglect to expose the kingdom to apparent ruin.

In king Charles 1's reign was coined of silver money - - - - -	8,776,544	10	3
In all	15,109,476	13	5¼

Then he considers, how far this sum is to be abated. 1. All queen Elizabeth's crowns, half-crowns, groats, quarter-shillings, half-groats, three-half-penny pieces, three-farthing pieces, and half-pence are wholly sunk. 3. Great numbers of her shillings and six-pences are melted down or lost. 3. The crowns, groats, two-pence, pence and half-pence, of James 1, and Charles 1, are quite gone; with many of their half-crowns, shillings, and six-pences. So that he reckons, there was not left above a third part of the whole, coined in those three reigns, 5,036,492*l.* To this he adds the unmelted coins of Charles 2, James 2, and king William, which he supposed to amount to about 563,508*l.* So the whole of the silver money clipped and unclipped, hoarded and current, then was 5,600,000*l.* Of this sum he reckons 4 millions consisted of clipped money, and the remaining 1,600,000*l.* to be unclipped, and lying in hoards, or current in the remote counties.—The author proceeds to compute, how far the clipped pieces may have been diminished in the weight. In order to this, he observes, that of 100*l.* sterling in silver, according to the standard of the Mint, ought to be 32lb. 3 oz. 1 pw. and 22gr. Troy. Now there had been brought in promiscuously, in the months of May, June, and July, 1695, 572 bags of 100*l.* each,

	lb.	oz.	pw.	gr.
Which 572 bags, according to the standard, should have weighed, Troy weight, - - -	18,451	6	16	8
But upon examination they weighed only - -	9,480	11	05	0
Deficiency	8,970	7	11	8
The weight of a hundred pounds sterling, according to the standard - -	32	3	1	22
The medium of the weight of each hundred pounds of the clipped money,	16	8	18	00
The medium of the deficiency, - - - - -	15	6	3	22

Hence it appears, that the current silver coins were diminished near one half, about the proportion of 10, to 22. Consequently, if there were 4 millions of clipped money to be recoined, it would make but about 2 millions. So there would be a loss of about that sum. The real loss proved to be 2,000,000*l.*

The next step was so consider, Whether the several Denominations of the new Money should have the same weight and fineness as the old; or Whether the established Standard should be raised? This question produced many debates: Those who were for raising the Standard, argued, "That the price of an ounce of silver-bullion was advanced to 6*s.* 3*d.* and therefore the Standard ought to be raised to an equalily. That the raising the Standard would prevent this exportation of our coin, and the melting of it down, which of late years has been much practised, to the great prejudice of this kingdom; and that it would encourage people to bring in their plate and bullion into the mint."

The Court party, who were for preserving the old standard, urged, "That the worth of money was relative, and to be rated by the measure of such goods, labour, advice, skill, or other assistances, as could be purchased from another by our parting with it. That the value of money among foreigners, who lived under different municipal laws, was intrinsic, and consisted in its weight and fineness. That common consent had given it this value, for the common conveniency of supplying one another's wants. That the weight and fineness was the only worth, that other nations regarded in our coin, as we in theirs; all money being between subjects of different governments of no greater value, excepting the workmanship, than so many pieces of uncoined bullion. That therefore, should our standard be altered, we should still be upon the same foot with our neighbours; for, if we were to pay them for their goods, or exchange our money with theirs, whatever denomination we gave our money, they would in their change ever reduce it to an equality with theirs, and proportion the quantity and goodness of their commodities to the weight and fineness of the money they were to receive for them; so that in respect of our foreign commerce, there was no reason to alter our standard. That at home, if the standard were raised, great confusions would attend it; the landlord would be defrauded of a great part of his rents, and the creditor of his debts. That the seaman and the soldier would be wronged in their pay; and many the like injuries and inconvenience would happen. That it was no answer to say, that they might buy as much goods and conveniencies of life with this coin raised above its standard, as they could before, because, by degrees, the seller would infallibly raise the price of his goods, in proportion to the new raised standard; and that of this there was an instance before them, all commodities being raised in their price, while guineas were paid for thirty shillings. That whereas it was alledged, that the price of bullion was risen to 6*s.* 3*d.*, and therefore the standard of the silver coin ought to be raised likewise; it was replied, That it was a thing impossible, that the price of silver could rise and fall in respect of itself: That it was an unchangeable truth, than which no mathematical demonstration could be

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clearer, that an ounce of silver would ever be worth another ounce of the same fineness, and no more, allowing some inconsiderable disparity upon the account of the coin, if one ounce be in money and the other in bullion. That it was true indeed that the people commonly gave 6*s*. 3*d*. for an ounce of bullion; but that they gave only clipped pieces, that had no more than the sound of shillings and pence, but were by no means the things themselves; that is, they were not the standard shillings of due weight and fineness, and were no more so in the just sense of the word, than an ell is an ell, when the third part of it is cut off. That the case was so plain, that when they demanded of those, who affirmed an ounce of bullion to be worth 6*s*. 3*d*., whether they meant six milled shillings and three-pence, they knew not what to reply; for this alteration of the value of bullion was merely in relation to diminished money. And, to make it yet more evident, they urged, that it was matter of fact, that, with 5*s*. 2*d*. of new milled money, they could buy as much bullion as they pleased; while those, who bought it with clipped pieces, paid 6*s*. 3*d*. That whereas it was urged, that the raising the standard would prevent the exportation of our money, it was answered, that there was no other way possible to keep our money at home, than by out-trading our neighbours; that is, by sending them more commodities, or of greater value, than those, which we received from them. For if, upon the balance, we were found in their debt, there was no way left but to pay it in coin or bullion; and that therefore, whatever denomination we gave our coin, we must be necessitated to send it abroad, if the commodities we exported could not pay our debts. And that all the other arguments for raising the standard would sink to the ground, in case these two, on which the rest were built, had no reasonable foundation.

Dec. 10. After debate, the commons resolved to recoin the clipped money, according to the established standard of the Mint, both as to weight and fineness; and to make it more easy to the people, they voted a recompense for the deficiency of the clipped money; and that the loss of such clipped money should be borne by the public, and a fund of 1,200,000*l*. settled for that purpose. Accordingly, for raising that sum, a tax for 7 years was laid upon all dwelling-houses, except cottages (now called the Window-Tax) namely 2*s*. yearly upon each house; 4*s*. upon every house having ten windows; and 8*s*. upon such houses as have 20 windows, over and above the 2*s*.

The Parliament was not insensible of the inconveniencies that would attend the calling in and recoining of the Clipped Money, the principal of which would be a cessation of payments, and thereupon an interruption of commerce. It was plain, that England could not subsist, unless some expedient was found out to support its trade, till the New Money returned from the Mint; and, since gold alone was not sufficient for that purpose, to fix upon such an expedient was a very difficult thing. They therefore agreed to call in the money by degrees; that, while some denominations of coin were suppressed, others, might be current; hoping, that, before the last old money should come in to be recoined, so much of the new might circulate from the Mint, as might sufficiently answer the necessities of the nation. They resolved therefore, 1. That a day be appointed, after which no clipped Crowns or Half-Crowns, as also no money clipped within the ring, be allowed in payment, or pass, except only to the collectors of his majesty's revenues or taxes, or upon loans or payments into the Exchequer. 2. That a day be appointed, after which no Clipped Money should pass, in any payment whatsoever. 3. That a day be appointed for all persons to bring in their Clipped Money, to be recoined into Milled Money; after which no recompence should be made for the same."

Dec. 11. An Address was ordered to be prepared, to desire his majesty to regulate the currency of Clipped Money, according to the preceding resolution; which Address being drawn up, and reported by Mr. Montague, and afterwards (Dec. 19.) presented by him to the king, his majesty caused a Proclamation to be issued out accordingly. It is to be remarked, that the lords had already addressed the king to the same effect.

The days appointed by the king's Proclamation for putting a stop to the currency of clipped money were so short, that an immediate stop was thereby put to trade. This was partly occasioned by the backwardness of the people to receive any old money, though allowed at present to pass, upon an apprehension, that at last it would be left upon their hands; partly from the slowness of recoining in respect of the people's wants, though otherwise dispatched with all the expedition imaginable in so great an affair; and partly by reason of the unequal intrinsic value between the new milled money, and those pieces or denominations of the old, which were allowed to be current. For while the hammered money, and pieces not clipped within the ring, were permitted to pass for the present necessity of trade, no body was willing to make payments in new money, which so much exceeded the old in its intrinsic worth. And therefore the new silver money, as fast as it issued from the Mints and Exchequer, was in a great measure stopped in the hands of the first receivers; for none were disposed to make payments in the new silver coin at the old standard, when they could do it in clipped pieces so much below it. And those, who had no payments to make, kept their new money as medals and curiosities in their chests; and there is reason to believe, that, at first, a great quantity of new money, by the help of the melting pot, went abroad in ingots to purchase gold, which at this juncture was a very profitable commodity in England. These inconveniencies being represented to the commons, the house in a grand committee considered the state of

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the nation, and how to prevent the interruption of commerce, during the recoining of the clipped monies. After some debates on several days, the commons Resolved, "1. That the recompence for supplying the deficiency of clipped money should extend to all clipped money, which was silver, though of a coarser alloy than the standard. 2. That the collectors and receivers of his majesty's aids and revenues be injoined to receive all such monies. 3. That a reward of five pounds per cent. be given to all such persons, as should bring in either milled or broad unclipped money, to be applied in the exchange of the clipped money throughout the kingdom. 4. That a reward also of 3*d.* per ounce be given to all persons, who should bring in wrought plate to the Mint to be recoined. 5. That, for the sooner bringing in the clipped money to be recoined, any persons might pay in their whole next year's tax of 4*s.* in the pound in clipped money, at one convenient time appointed for that purpose. Lastly, That commissioners be appointed in every county to pay or distribute the milled and broad unclipped money, and the new coined money, and to receive the clipped money." These Resolutions were formed into a Bill, with a clause to prohibit the melting down and exportation of our coin or bullion, and to prohibit the use of plate in public houses; which last article proved the best expedient to supply the Mints with bullion, there being at this time scarce any public house in England, that had not silver tankards and other utensils of the same metal, which the owners chose rather to carry to the Mint, and turn into ready money, than to keep so much useless and dead silver at home.*

The lords having made several amendments to this bill, most of which, after some debates and conferences between both houses, were disagreed to by the commons, the Chancellor of the Exchequer, according to order, presented to the house another Bill 'for remedying the 'Ill State of the Coin of this Kingdom,' which passed both houses and received the royal assent.†

Upon a petition to the commons by divers merchants and traders, to desire that the difficulties and losses in their trade and payments, occasioned by the rise of guineas, might be taken into consideration; the house first ordered a bill to be brought in, for taking off the obligation and encouragement of coining guineas for a certain time; and then proceeded to the lowering their value, wherein they met with some opposition. The reasons against the sinking the price of guineas were, that the people were easy, and pleased with it: that abundance of people would be losers, in whose hands the guineas should be at last found, which would raise great disturbance and clamour in the nation; that therefore it ought to be considered, how far it was fit to incense the common people in this juncture of affairs, who had already suffered so much by the war.

Those, who were for reducing the price of guineas, argued, that there was as great reason to bring down guineas, as there was to recoin the silver money at the old standard. And here they reckoned up the mischiefs mentioned before on that head. That however the parliament might be obliged to manage by the necessity of affairs, and to suffer for a time the guineas to pass at that excessive rate, that in some measure there might be a currency of money, while the Mints were employed in new coining the silver; yet now they were obliged to sink the price nearer the old standard, that the silver money might not be stopped and hoarded up as fast as issued out from the Mints. And that, whatever losses and inconveniences the people might suffer by reducing of guineas, yet the mischiefs that arose, and would daily increase from not doing it, infinitely overbalanced those on the other side. Upon this the commons resolved to lower the price of guineas; and, that they might do it with less grievance and disquiet to the people, they at first reduced them from 30 to 28*s.*; afterwards to 26, till at last a clause was inserted in the bill 'For en-'couraging the bringing Plate to the Mint,' whereby they were settled at 22*s.* from which they naturally sunk to their former price of 21*s.* and 6*d.* However, it is to be observed, that though the parliament lowered the value of the guineas, hoping by that means to bring out the new money into circulation, yet by the artifice and management of some men the people were made to believe, that the price of gold would be raised at the next session: upon which many persons, who had great sums of guineas, kept them close in their chests. By this means, though the circulation of the new money was a little promoted, yet that of guineas, by which the nation chiefly subsisted, was considerably obstructed; the new silver money too, which the people were likewise industriously persuaded to believe would be advanced in value, when the parliament should come next together, was for that reason in a great measure hoarded up, to the great damage of commerce. Another evil arose during the recoining of the money; a general loss of credit which indeed shook the state. But this was cured by a seasonable and wise remedy, which the parliament applied the next session; and on the other hand such diligence was used, not only in the Mint of the Tower, but likewise in those, which the king caused to be set up in York, Bristol, Exeter, and Chester, that at last this great undertaking of the highest difficulty, yet of absolute necessity, was happily accomplished, to the immortal honour of the parliament in general, and in particular of Mr. Charles Montague, who had the chief management of this weighty and arduous affair, which was executed with an order and justice, and quiet and exactness, beyond all

* This was grown to such an extravagance, that one ale-house, near the Royal Exchange, had, in silver tankards, to the value of above 500*l.*

† See Burnet, Boyer, Tindal, and the Works of lord Halifax.

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men's expectation; so that the nation was freed from a great and threatening mischief, without any of those effects, which were generally apprehended from it, and, in less than a year's time, England, that had for so many years the worst money of any nation in Europe, had then the best, to the great disappointment of the Jacobites, who had conceived great hopes of throwing the nation into confusion.

Proceedings relating to the Scotch East India Company.] Dec. 14. The lords, in a conference, communicated to the commons an Address to his majesty, in relation to an act of parliament made in Scotland for erecting a Company trading to Africa and the East Indies; to which Address the commons gave their concurrence; and a committee was appointed to examine, What methods were taken for obtaining that Act? Who were the Subscribers to that company? and who were the promoters and advisers of it? Both houses attended the king with their Address, wherein they represented to him, "That, having taken into their consideration the state of the trade of this kingdom, they found, that, besides many other disadvantages and difficulties it now lay under, an act of parliament, which had lately received his majesty's royal assent in his kingdom of Scotland, for erecting a company trading to Africa and the Indies, was like to bring many great prejudices and mischiefs to all his majesty's subjects, who were concerned in the wealth or trade of this nation. That the said act did provide, 'That 'all ships, merchandize, and other effects what-'soever, belonging to that company, should be 'free from all manner of restraints or prohibi-'tions, and of all customs, taxes, sesses, sup-'plies, or other duties imposed, or to be imposed 'by act of parliament, or otherwise, for the 'space of 21 years. And farther, that the said 'company, whose members, officers, servants, 'or others belonging thereto, should be free, 'both in their persons, estates, and goods, em-'ployed in the said stock and trade, from all 'manner of taxes, sesses, supplies, excises, quar-'tering of soldiers transient or local, or levying 'of soldiers, or other impositions whatsoever, 'during the space of 21 years.' That, by reason of the great advantages granted to the Scots East India company, and the duties and difficulties, that lay upon that trade in England, a great part of the stock and shipping of this nation would be carried thither; and by this means Scotland might be made a free port for all East India commodities; and consequently those several places in Europe, which were supplied from England, would be furnished from Scotland much cheaper than could be done by the English; and therefore this nation would lose the benefit of supplying foreign parts with those commodities, which had always been a great article in the balance of their foreign trade. Moreover, that the said commodities would unavoidably be brought by the Scots into England by stealth, both by sea and land, to the great prejudice of the English trade and navigation, and to the great detriment of his majesty in his customs. And that, when that nation should have settled themselves in plantations in America, the English commerce in tobacco, sugar, cotton, wool, skins, masts, &c. would be utterly lost, because the privileges of that nation, granted to them by this act, were such, that that kingdom must be the magazine for all commodities, and the English plantations, and the traffic there, lost to this nation, and the exportation of their own manufactures yearly decreased. That besides these and many other obstructions, that the act would unavoidably bring to the general trade of this nation, another clause in the said act, whereby his majesty promised to interpose his authority to have restitution, reparation, and satisfaction made for any damage, that might be done to any one of the ships, goods, merchandize, persons, or other effects whatsoever belonging to the said company, and that upon the public charge; did seem to engage his majesty to employ the shipping and strength at sea of this nation, to support this new company, to the great detriment even of this kingdom."

To this address the King made answer, "That he had been ill served in Scotland, but he hoped some remedies might be found to prevent the inconveniences, which might arise from this act."

Soon after this, the king turned out both the Secretaries of State in Scotland, and the marquis of Tweedale; And great changes were made in the whole ministry of that kingdom, both high and low; particularly the lord Murray, son of the marquis of Athol, was made secretary of state.

Lord Bellhaven and others impeached thereon.] However, this business did not stop here; for the committee appointed by the commons to examine by what methods this act was obtained, having made their report, and delivered a copy of an oath *de fideli* taken by the directors of the Scots East-India company, and of the journal of the proceedings of the directors; and the report, oath, and journal being examined; as also the petition presented to the house by the English East-India company, it was resolved, "That the directors of the company of Scotland trading to Africa and the Indies, administering and taking here in this kingdom an oath *de fideli*, and under colour of a Scots act of parliament, stiling themselves a company, were guilty of a high crime and misdemeanor; and that the lord Bellhaven, William Paterson, David Nairne, James Smith, James Cheisly, William Shepherd, Robert Blackwood, James Balfeur, James Fowlis, Thomas Coutts, Abraham Wilmer, Daniel Van Mildert, Robert Williamson, Anthony Merry, Paul Docminique, Robert Douglas, Thomas Skinner, Hugh Fraizer, James Bateman, Walter Stewart, and Joseph Cohene d' Azevedo be impeached of the same." While the impeachments were drawing up, Roderick Mackenzie endeavoured to suppress the Evidence, which he had given against these persons, for which he was ordered into custody, but he made his escape; nor

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could he be apprehended, though the king, at the request of the commons, issued out a proclamation for that purpose.

A Council of Trade voted.] The losses of the merchants gave great advantages to those, who complained of the administration: their conduct, with relation to our trade, was represented as at best a neglect of the nation, and of its prosperity; some, with a more spiteful malice, said, it was designed, that we should suffer in our trade, that the Dutch might carry it from us: and, how extravagant soever this might seem, it was often repeated by some men of virulent tempers. And in the end, when all the errors with relation to the protection of our trade, were set out, and much aggravated, the commons proceeded to consider the state of the nation in relation to trade, and resolved, 1. "That a Council of trade be established by act of parliament, with powers for the more effectual preservation of the trade of this kingdom. 2. That the commissioners constituting the council be nominated by parliament. 3. That the commissioners should take an oath, acknowledging, that king William was rightful and lawful king of this realm; and that the late king James had no right or title thereunto; and that no other person had any right or title to the crown, otherwise than according to the act of settlement made in the first year of his majesty's reign, &c." Of these and ten more resolutions, the first and second, with some others, were indeed approved; but several, and especially the fourth, whereby king William was to be acknowledged rightful and lawful king, and which occasioned a warm debate, were rejected by the house. And a Bill was ordered to be brought in, upon the resolutions agreed to; though it was opposed by those, who looked on the establishment of a Council of Trade by an act of parliament, as a change of our constitution in a very essential point. They urged That the executive part of the government was in the king; so that the appointing any council by act of parliament began a precedent of their breaking in upon the execution of the law, in which it could not be easy to see how far they might be carried. It was indeed offered, that this council should be much limited as to its powers; yet many apprehended, that, if the parliament named the persons, how low soever their powers might be at first, they would be enlarged every session; and, from being a council to look into matters of trade, they would be next impowered to appoint convoys and cruizers. This, in time, might draw in the whole Admiralty, and that part of the revenue or supply, which was appropriated to the navy; so that a king would soon grow to be a duke of Venice. And indeed those, who set this on most zealously, did not deny, that they designed to ingraft many things upon it.

The king was so sensible of the ill effects, which this would have, that he ordered his ministers to oppose it, as much as possible they could. The earl of Sunderland, to the surprize of many, declared for it, as all that depended on him promoted it. He was afraid of the violence of the republican party, and would not venture upon provoking them. The ministers were much offended with him for taking this method to recommend himself at their cost. The king himself took it ill, and declared to bishop Burnet, That if the earl went on, driving it as he did, he must break with him; and imputed it to his fear. For the unhappy steps, which he had made in king James's time, gave his enemies so many pretences for attacking him, that he would venture on nothing, that might provoke them. Here was a debate plainly in a point of prerogative, how far the government should continue on its antient bottom of monarchy, as to the executive part; or how far it should turn to a commonwealth; and yet, by an odd reverse, the Whigs, who were now most employed, argued for the prerogative, while the Tories seemed zealous for public liberty; so powerfully does interest biass men of all forms."*

A Grant of the Revenues of Wales to the Earl of Portland strongly opposed.] There was another affair depending in this session, which very sensibly concerned his majesty. The earl of Portland had begged of his majesty the lordships of Denbigh, Bromfield, and Yale, and other lands in the principality of Wales; which his majesty, before he went last to Holland, had readily granted to him and his heirs for ever: The Warrant coming to the lords of the treasury, the gentlemen of the county, upon short notice, were heard on May the 10th, before their lordships.

Sir *William Williams* then alleged, 'That these lordships were the ancient demesnes of the prince of Wales. That the Welsh were never subject to any but God and the king. That in the statute for granting fee farm rents, there was an exception of the rents belonging to the principalty of Wales; which imported, that the parliaments took those revenues to be unalienable. That upon creation of a prince of Wales, there were many acknowledgments payable out of those lordships; and though there were at present no prince of Wales, yet he hoped to see one of the king's own body, &c.'

Sir *Roger Puleston* alledged, 'That the revenues of these lordships did support the government of Wales, by paying the judges and other officers their stated salaries; and if given away, there would be a failure of justice.'

Mr. *Price*, a gentleman of great parts, since one of the Barons of the Exchequer, did boldly urge, 'That the grant was of a large extent, being five parts in six of a whole county, which was too great a power for any foreign subject to have; and that the people of the country were too great, to be subject to any foreigner: Let it be considered, (says he) can it be for his majesty's honour or interest, (when the people hear this and understand it) that he daily gives away the revenues of his crown;

* Tindal.

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and what is more, the perpetuity of them to his foreign subjects? Good kings, after a long and chargeable war, were wont to tell the people, that they were sorry for the hardships the nation underwent by long wars and heavy taxes; and that now they would live upon their own revenues: But it is to be feared, if grants are made so large and so frequent, there would be nothing for the king or his successors to call their own to live upon. He concluded thus: 'It is to be hoped your lordships will consider, that we had but one day's notice of this attendance, and must come therefore very much unprovided: Yet we doubt not, but that these hints and broken thoughts we have offered to your lordships, you will, by your great judgments, improve; whereby the ill consequences of this grant may truly be represented to his majesty.

The Lord *Godolphin*, the first Commissioner of the Treasury, asked for satisfaction, Whether the earl of Leicester had not those lordships in grant to him in queen Elizabeth's time? Sir Robert Cotton answered, he believed he could give the best account in that case; that the earl of Leicester had but one of those lordships, and that was Denbigh: That he was so oppressive to the gentry of the country, that he occasioned them to take up arms, and to oppose him; for which, 3 or 4 of his, sir Robert Cotton's, relations were hanged; but that it ended not there, for the quarrel was kept still on foot, and the earl glad to be in peace, and to grant it back to the queen: since which time it had ever been in the crown. Whereupon the lord Godolphin said, They had offered many weighty reasons, which they should represent to his majesty.

From the Treasury, the gentlemen of Wales attended the grant, to the Privy-Seal, where their reasons and complaints against it, were heard and received with all candour and goodness. Yet notwithstanding all this, the said grant being only superseded, but not recalled, sir Thomas Grosvenor, sir Richard Middleton, sir John Conway, sir Robert Cotton, sir William Williams, sir Roger Puleston, Edward Vaughan, Edward Brereton, and Robert Price, esqrs; addressed themselves by petition to the commons.

Mr. Price's Speech against the Grant.] Upon this occasion, the same Mr. Price, a member of that house, made the following memorable Speech:*

"Mr. Speaker, The Petition now presented unto you, in behalf of ourselves and countrymen, though subscribed by few hands, yet has the sense and approbation of thousands; who are not influenced by their own interest, but by the honour they have for the crown, and the welfare of the British nation.—If I could conceive that the glory and grandeur of England was, or could be upheld by a poor, landless crown, and a miserable, necessitous people, I could then be easily persuaded to believe, that his majesty was well advised to grant away all the Revenues of the crown, and that his government thereby could be well secured, and his people best protected when they had nothing left them. I am sure this is not English, but foreign policy, advised by those who may revere the king, but hate us.—The kings of England always reigned best when they had the affections of their subjects; and of that they were secure, when the people were sensible, that the king was intirely in their interest, and loved the English soil, as well as the people's money. When kings had a landed interest coupled with their power, then it was most stable and durable; as is manifest by the ancient demesne-lands, and other large and royal revenues; the many and great tenures the people then held their estates under, which created then such an indissoluble union and dependence, that they supported each other: and it is observable, that the separation of the revenues from the crown, has been in all ages the occasion of rendering the English government precarious: and that it might not be so, your Petitioners with a dutiful deference to his majesty, do represent to you, the great council of the nation, this, theirs, and the people's case, for redress and remedy according to your wisdoms.—Give me patience and pardon, and I will set before you the true state of the fact upon the Petition, the manner of the Grant, and what is granted. The three great lordships, or hundreds of Denbigh, Bromfield, and Yale, in the county of Denbigh, for some centuries, have been the revenues of the kings of England and princes of Wales, to which lordships your Petitioners, and above 1500 freeholders more, are tenants, pay rents, suits of court, and other royal services. These lordships are 4 parts in five of the whole county, being the best and most plentiful part of the country, and 30 miles in extent.—The present rents to the crown, are but 1700*l.* per ann. besides heriots, reliefs, mises, wasts, estreats, perquisites of courts, and other contingent profits. There are also great wastes and profitable, of several thousands of acres, rich and valuable mines, besides other advantages a mighty favourite and great courtier might make out of this country.—Your Petitioners being casually informed last summer, that a Grant to the earl of Portland, of the lordships of Denbigh, Bromfield and Yale, was at the Treasury, in order to be passed, your Petitioners did oppose the said grant; and, upon considering the grant, they found not only the three lordships, but also near 3,000*l.* per ann. of your petitioners and their countrymens ancient inheritances expressly granted. So that, if all that was comprized in the grant had passed, it had been a very noble, nay royal gift, worth at least 100,000*l.* Nor was this grant made for

* From the Somers' Tracts, col. 1, v. 3, p. 98; where it is intitled "*Gloria Cambriæ*: or the Speech of a bold Briton in parliament, against a Dutch prince of Wales." Robert Price esq. was made a Baron of the Exchequer in 1701, and in the reign of George 1, a Justice of the Common Pleas. He died at Kensington, Feb. 1, 1732 aged 75, lamented by all.

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any short time to this noble lord, being to him and his heirs for ever; and yet not much to the advantage of the crown, having only a reservation of 6*s.* 8*d.* a year to the king and his successors.—These facts were laid before the Lords of the Treasury, by your Petitioners, who cannot say, but they were well heard, well understood, and hope, truly represented; only with this remark, that the docket signed by the Lords of the Treasury for the Grant, was dated and carried to the privy-seal, a month before the Lords of the Treasury had ordered your Petitioners to be heard at the Treasury against the Grant. The next stage we had was to attend that noble Grant from the Treasury to the privy seal, where, I must confess, our reasons and complaints were heard with all candour and goodness, by that noble lord who had the custody of the seal; and I believe sincerely, has truly represented the whole affair; and that is the reason, at present, that this Grant halts, I suppose, till the parliament rises, and then I doubt not but it will find legs and take its journey.—Having made our applications in the proper place, to stop the said Grant, and that without success, it becomes a Grievance, and we hope this honourable house will redress it. These lordships, for many ages, have been the revenues of the kings of England, the support of several princes of Wales, have been settled upon them and their heirs, by sundry patents of the kings, and confirmed by several acts of parliament.—This royal dominion, in most reigns, has been attacked by great and powerful favourites, but with little success; for in the 4th of queen Elizabeth, some parts of this revenue were granted to some of her creatures, but attended with so many law-suits and general disturbances, that the queen interposed and the freeholders gave large compositions for their peace, and the queen, by her charter, confirmed their estates.—In the 4th year of king James 1 these lordships were settled upon prince Charles and his heirs, kings of England; but his servants were, as most courtiers are, willing to make use of their opportunities, and had gotten some grants of great part of these revenues, and proved so vexatious and troublesome to the country, that the freeholders came to another composition, and gave 10,000*l.* for their peace, and for the settling of their estates, tenure and commons, which were confirmed by parliament, in the 3rd year of the reign of king Charles 1.—In the late reigns, however calumniated, there were many and great applications made for grants of some members and parts of these lordships, which were always rejected, as too powerful a trust for a subject. If the parts were so, what shall the grant of the whole be? History and records tell us, that the grants of these lordships have been very fatal to either prince or patentees; the one either lost his crown, or the other his head. It is therefore dangerous meddling with such ominous bounties.—I must likewise observe to you, that the Long Parliament in king Charles 2nd's reign, when they passed an act for the Fee-Farm Rents, excepted those within the principality of Wales; which is a plain intimation, that the parliament thought them not alienable, or fitting to be aliened, but rather to be preserved for the support of the prince of Wales. There is a great duty lies upon the freeholders of these lordships, upon the creation of a prince of Wales; they pay the prince 300*l.* for Mises*, which is such a duty, service, or tenure, that it is not to be severed from the prince of Wales; and how this tenure can be made reconcilable to this noble lord's grant, will be a great difficulty. If we are to pay these Mises to this noble lord, upon this grant, then he is, or is *quasi* a prince of Wales; for this duty was never paid to any other: but if it is to be paid to the prince of Wales, and likewise to this noble lord, then we are doubly charged. But if it be to be paid to the prince of Wales, when he has no royalty left in that dominion, and not to be paid to this noble lord, who by this grant is to have the whole lordships, it creates a repugnancy in the tenure of our estates.—But I suppose this grant of the principality is a forerunner of the honour too, and then I shall fancy we are returning to our original contract; for as story tells us, we were first brought to entertain a prince of Wales, by recommending him to us as one that did not understand the English tongue, and our forefathers thence inferred, that he must be our countryman, and no foreigner, and one that understood the British language; how we were deceived therein, is palpable.—I suppose this lord doth not understand our language, nor is it to be supposed, that he will come amongst us to learn it, nor shall we be fond of learning his.—But since I have minded you of our Welsh Original Contract, which is of so long a standing, I would not have you forget another contract made not above seven or eight years since, which is the foundation of our present government; I mean the Bill of Rights and Liberties, and settling the succession of the crown, which is so much forgotten in discourse or practice, that I have not heard it named in parliament, but once the last parliament, and I find it as much forgotten in the administration. I would gladly know from those who are better versed in prerogative learning than myself, Whether his majesty can by the Bill of Rights, without the consent of parliament, alien, or give away the inheritance, or an absolute fee of the Crown Lands? If he can, I would likewise know to what purpose the crown was settled for life, with a remainder in succession, if a tenant for life of the crown can grant away the revenue

* Mises were certain tollages or tributes, paid at the creation of a prince of Wales. Thus, in the county Palatine of Chester, it was a certain tribute, paid by the inhabitants of that county, on the change of every owner of that earldom, for the enjoyment of their liberties. And they have there a Mise-book, in which every town and village is rated so much towards the Mise.

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of the crown, and which is incident to the crown? Or can the king have a larger estate in the revenue than he has in the crown to which it belongs? Far be it from me to speak any thing in derogation of his majesty's honour and care of us!—It cannot be pretended, that he shall know our laws, (who is a stranger to us and we to him) no more than we know his counsellors, which I wish we did; I mean, those new advisers however, those of his counsellors or ministers, whom we do know, and those through whose hands the grant did pass, by advising the king to grant what by law he could not, are guilty of the highest violation of the laws and liberties of England, strike at the foundation of the succession, and tear up the Bill of Rights and Liberties by the roots: It was their province and duty to have acquainted the king with his power and interest, that the ancient revenue of the crown is sacred and unalienable in time of war and the people's necessities. By the old law, it was part of the Coronation Oath of the king's of England, not to aliene the ancient patrimony of the crown, without the consent of parliament: But as to those oaths of office, most kings have court-casuists about them, to inform that they have prerogative enough to dispense with them.—It has been the peculiar care of parliaments, in all ages, to keep an even balance betwixt king and people; and therefore, when the crown was too liberal in their bounties, the parliament usually resumed those grants, which was very frequent; for, from the reign of Henry the 3rd of England, to the 6th year of Henry 8th, there was one or more bills of resumption in every one of those king's reigns, save one of them. In the time of Henry the 5th, there was an Act of Resumption of all that was granted from the Prince of Wales in all that principality; and yet those acts were not looked upon by those kings (of whom some of them both good and great) any lessening or diminution to their prerogatives, it being considered, that kings have their failings as well as other men, being cloathed with frail nature, and are apt to yield to the importunities of their flatterers and favourites: Therefore it becomes necessary, that the great council of the nation should interpose for the interest of the king and people.—The Commons of England always entertained an honourable jealousy of their princes, when they perceived their expences at home or abroad, their gifts and boons to their favourites, to be too large and exorbitant; and have therefore, by their petitions and dutiful applications to the crown, advised the kings of England to retrench their expences, and not to aliene or give away the revenues of the crown, lest they should become burthensome to the people, and chargeable to the commonwealth, and that they would live upon their own revenue, *et Tallagiis Populi*. These were their just and frequent ways, in elder time, to repair the languishing estate of the crown.—And as we are an island, and subject to invasion, so the parliaments of England were very watchful, that other countries should not outdo them in trade and naval strength; that foreigners should have no more footing, or strength, or settlement in England, than was conducing to carry on the trade and commerce of the nation; and whenever princes entertained foreigners as their counsellors, or chief advisers, the people of England were restless and uneasy, till they were removed out of the king's councils, nay, out of the kingdom. And instances are many in History and Parliament-Rolls, of what great men and foreigners (being favourites) were banished the land for procuring to themselves too large a proportion of the royal revenue, especially in time of war, and the people's necessities.—As for instance, in king Stephen's time, who usurped the crown of England from Maud the empress, and her son, king Henry the 2d: William de Ipres, a Netherlander, was brought over, with great numbers of his countrymen: to which William de Ipres that king *de facto* gave an earldom, and made him so great a confident that he was in all his councils, and obtained great grants, not only for himself, but also for his countrymen the Netherlanders, called then Flemings, who then swarmed so thick about that king's court, that Englishmen were scarce known or regarded; at which the people were so enraged, that they importuned king Henry 2nd, when he obtained the right of his crown, to seize on all which king Stephen had given the foreign favourite and his accomplices, and banished him, and his friends the Netherlanders, from his court and kingdom.—The like compliment was made by the people to king Richard 1st, for the removing and banishing of the duke of Saxony, his own nephew, and his sister's son, being a foreigner, and all his German friends. The same Address was made by the people to Henry 3rd, to banish his half-brethren (being foreigners) and all their Poictovian friends. The same Address was made by the people to Edward 2nd, to do so with the lineage of Gaveston and all his Gascoigners, and did not Edward 3rd do the same with his Bohemian friends? Henry 4th, and other following princes, took the same method, upon the humble and hearty petition of the people, sometimes in parliament, and sometimes out; and, in these cases, the kings seized and took to themselves all the revenues of the crown that they had given them, and always sent those foreigners to their own countries.—For these reasons given, in many of those instances, the people of England disliked and opposed them, fearing both their power and councils, and that they would become heavy and burthensome to the state, and that England was able to foster none but her own children.—I must needs confess, that my thoughts are strangely troubled with the apprehension of our deplorable state. We are in a confederacy in war, and some of those confederates our enemies in trade, though planted amongst us, some in the king's council, some in the army, and the common traders have possessed themselves of the out-skirts of the city. We find some or other of them naturalized,

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and others made denizens. Every parliament we find, endeavours for a general naturalization, and that warmly solicited from court. We see our good coin all gone, and our confederates openly coining base money, of Dutch alloy, for us. We see most places of power and profit given to foreigners; We see our confederates in conjunction with the Scots to ruin our English trade: We see the revenues of the crown daily given to one or other, who make sale of them, and transmit their estates elsewhere: We do not find any of them buy lands or estates amongst us: but what they can get from us they secure in their own country.—How can we hope for happy days in England, when this great man, and the other (though naturalized) are in the English, and also in the Dutch councils? If those strangers, though now confederates, should be of different interests, as most plainly they are in point of trade; to which interest is it to be supposed those great foreign counsellors and favourites would adhere: So that, I foresee, when we are reduced to extreme poverty, as now we are very near it, we are to be supplanted by our neighbours and become a colony to the Dutch. —I shall make no remarks on this great man, for his greatness makes us little, and will make the crown both poor and precarious; and when God shall please to send us a prince of Wales, he may have such a present of a crown made him, as a pope did to king John, who was surnamed Sansterre, and by his father Henry 2nd made lord of Ireland, which grant was confirmed by the pope, who sent him a crown of peacocks feathers, in derision of his power and the poverty of his revenue. I would have us to consider, we are Englishmen, and must, like good patriots, stand by our country, and not suffer it to become tributary to strangers: We have rejoiced, that we have beat out of this kingdom Popery and Slavery, and now do, with as great joy, entertain Socinianism and Poverty; and yet we see our properties daily given away, and our liberties must soon follow. Thus I have represented unto you the nature of this mighty Grant to this noble lord, the ill consequence that must attend the public, and more particularly this county, by the passing of it: the remedies that our forefathers took to cure this mischievous ill, were known.—I desire more redress than punishment. Therefore I shall neither move for an Impeachment against this noble lord, nor the banishment of him: but I shall beg that he may have no power over us, nor we any dependance upon him: therefore I shall conclude my motion, That an Address be made to his majesty, to stop the Grant that is passing to the earl of Portland, of the lordships of Denbigh, Bromfield, and Yale, and other lands in the principality of Wales; and that the same be not granted, but by consent of parliament."

Address to the King thereon.] This stout and eloquent Speech made so great an impression, that Mr. Price's Motion was carried by an unanimous consent, and on January the 22d this Address was presented to the king by the Speaker, attended by the whole house.

"May it please your most excellent majesty, We your majesty's most dutiful and loyal subjects, the knights, citizens and burgesses in parliament assembled, humbly lay before your majesty, That whereas there is a Grant passing to William earl of Portland and his heirs, of the Manors of Denbigh, Bromfield, and Yale, and divers other lands in the principality of Wales, together with several estates of inheritance, enjoyed by many of your majesty's subjects, by virtue of ancient grants from the crown:—That the said Manors, with the large and extensive regalities, powers and jurisdictions to the same belonging, are of great concern to your majesty and the crown of this realm: and that the same have been usually annexed to the principality of Wales, and settled on the princes of Wales for their support: and that a great number of your majesty's subjects in those parts hold their estates by royal tenure, under great and valuable compositions, rents, royal payments, and services to the crown and princes of Wales, and have by such tenure great dependance on your majesty and the crown of England, and have enjoyed great privileges and advantages with their estates under such tenure.—We therefore most humbly beseech your majesty to put a stop to the passing this grant to the earl of Portland of the said manors and lands; and that the same may not be disposed from the crown but by consent of parliament. For that such grant is in diminution of the honour and interest of the crown, by placing in a subject such large and extensive royalties, powers and jurisdictions, which ought only to be in the crown, and will sever that dependance, which so great a number of your majesty's subjects in those parts have on your majesty and the crown, by reason of their tenure, and may be to their great oppression in those rights which they have purchased and hitherto enjoyed with their estates, and also an occasion of great vexation to many of your majesty's subjects, who have long had the absolute inheritance of several lands (comprehended in the said grant to the earl of Portland) by ancient grants from the crown."

The King's Answer.] His majesty in Answer was pleased thus to express himself:

"Gentlemen, I have a kindness for my lord Portland, which he has deserved of me by long and faithful services; but I should not have given him these lands, if I had imagined the house of commons could have been concerned; I will therefore recall the Grant,* and find some other way of shewing my favour to him."

* Which accordingly was done; and the May after the following Grant was made in recompence for the revenues of the principality of Wales, viz. of the manor of Grantham in the county of Lincoln; honour of Penreth in the county of Cumberland, manor of Dracklow and Rudneth in the county of Chester; manor of Terrington in the county of Norfolk, manors

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*The King's Speech on the Discovery of the Assassination Plot.**] Feb. 24, 1695-6. The king came to the house of peers, and made the following Speech to both houses:

"My lords and gentlemen; I am come hither this day upon an extraordinary occasion, which might have proved fatal, if it had not been disappointed by the singular mercy and goodness of God; and may now, by the continuance of the same Providence, and our own prudent endeavours, be so improved, as to become a sufficient warning to us, to provide for our security against the pernicious practices and attempts of our enemies.—I have received several concurring informations of a design to assassinate me; and that our enemies at the same time are very forward, in their preparations for a sudden invasion of this kingdom; and have therefore thought it necessary to lose no time in acquainting my parliament with those things, in which the safety of the kingdom, and the public welfare, are so nearly concerned, that I assure myself nothing will be omitted on your part, which may be thought proper for our future security. —I have not been wanting to give the necessary orders for the Fleet, and I hope we have such a strength of ships, and in such readiness, as will be sufficient to disappoint the intentions of our enemies. I have also dispatched orders, for bringing home such a number of our troops, as may secure us from any attempt. Some of the Conspirators against my person are already in custody, and care is taken to apprehend so many of the rest as are discovered; and such other orders are given, as the present exigency of affairs does absolutely require at this time for the public safety.—My lords and gentlemen; Having now acquainted you with the danger which hath threatened us, I cannot doubt of your readiness and zeal, to do every thing which you shall judge proper for our common safety: and I persuade myself, we must be all sensible how necessary it is in our present circumstances, that all possible dispatch should be given to the business before you."

Address of both Houses thereon.] Upon this, the two houses immediately agreed to wait on the king that very evening at Kensington with their humble Address: viz.

"We your majesty's most loyal and dutiful subjects, the lords spiritual and temporal, and commons, having taken into our serious consideration what your majesty hath been pleased to communicate to us this day, think it our duty

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of Partington, Bristol-Garth, Homsey, Thwing, Burnisley, and Leven in the county of York; all parcel of the ancient revenue of the crown of England; and of the manor of Pavensey in the county of Sussex, parcel of the duchy of Lancaster; and of all the lands, tenements, and hereditaments thereunto belonging, to have and to hold the same to the said earl and his heirs; as of his majesty's manor of East-Greenwich in the county of Kent, under the rent of 4*l.* 13*s.* 4*d.* payable at Lady-Day yearly. And such clauses, powers and provisos are inserted, as were directed by warrant under his majesty's royal sign manual. There is likewise granted to the said earl of Portland, all the little remainder of the fee-farm-rents, worth to be sold, 24,000*l.* given of mere bounty, 23,000*l.*

* To murder the king, between Turnham-Green and Brentford, in a moorish bottom, where are a bridge and divers roads crossing one another. The 15th of February was the day appointed to act this royal tragedy; and the Conspirators having long kept two men at Kensington, to watch the king's going to hunt, which was commonly every Saturday, one of these Orderly Men (for so they called them) brought them word that the king did not go abroad that day. This disappointment was attended with the fears of a discovery, and thereupon Plouden, Kendrick, and Sherburn, the most timorous of all the Plotters, declined the action, and withdrew themselves; but sir George Barclay, sir Wm. Perkins, capt. Porter, and Mr. Goodman, concluding the design was not discovered, from their not being taken up by the government, they had another meeting, and there resolved to execute their bloody project, on Saturday the 21st of Feb. That forenoon was spent in a tedious expectation of the news, that the king was gone abroad; but, instead of that account, Keys, one of their Orderly Men at Kensington, brought advice, that the guards were all come back in a foam, and that there was a muttering among the people, that a damnable Plot was discovered: this astonishing news alarmed and dispersed all the Conspirators, and drove them to shift for themselves by a speedy flight.—Nor were Keys's report, and their apprehensions, groundless; for the Plot, and every step of it, from time to time, had been discovered by Richard Fisher, and something of it by Mr. Grimes, to the earl of Portland. Fisher had his knowledge of it from Harrison the priest, who took him to be one of their party; and Grimes had some dark hints from another; but both refusing to give his lordship the names of the Conspirators, little credit was given to their informations, till they were confirmed by other testimonies.—Mr. Pendergrass, who was wholly ignorant of the design till he was sent for to London, being struck with horror at the first proposal of it, even then took up a resolution to save his majesty's life; though, the better to manage his intended discovery, he seemed willing to engage in the hellish enterprize. This gentleman, on the 14th of Feb. at night, went to the earl of Portland, and being admitted to privacy with his lordship, though wholly a stranger, without further address, accosted his lordship with this surprizing request: 'Pray, 'my lord, persuade the king to stay at home 'to-morrow; for, if he goes abroad to hunt, he 'will be murdered.' The same night, though late, he was introduced to his majesty, and discovered the whole Plot; and his whole deportment shewing him to be a man of honour,

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in the first place, to give your majesty most humble Thanks for having acquainted your parliament with the great danger your sacred person hath been so nearly exposed to, and the design of an Invasion from our enemies abroad: we heartily congratulate your majesty's happy preservation, and thankfully acknowledge the signal Providence of God in it; and at the same time declare our detestation and abhorrence of so villainous and barbarous a design: and since the safety and welfare of your majesty's dominions do so entirely depend upon your life, we most humbly beseech your majesty to take more than ordinary care of your royal person. And we take this occasion to assure your majesty of our utmost assistance to defend your person, and support your government, against the late king James, and all other your enemies both at home and abroad; hereby declaring to all the world, that in case your majesty shall come to any violent death, (which God forbid) we will revenge the same upon all your enemies, and their adherents: and as an instance of our zeal for your majesty's service, we will give all possible dispatch to the public business: and we make it our desire to your majesty to seize and secure all persons, horses and arms, that your majesty may think fit to apprehend upon this occasion."

The King's Answer.] His majesty gave the two houses this Answer:

"My lords and gentlemen; I thank you heartily for this Address; on my part you may be assured, that I will do all that is within my power, for the conservation of this kingdom, to which I have so many obligations. I will readily adventure my life for the preservation of it, and recommend myself to the continuance of your loyalty and good affections."

Resolutions occasioned by the Plot.] On the same day with the Speech and Address, the commons ordered, That leave be given to bring in a Bill to empower his majesty to secure and detain such persons, as his majesty shall suspect are conspiring against his Person or Government. They gave several instructions for the more effectual raising the Militia. They resolved, That leave be given to bring in a Bill, that whenever it shall please God to afflict these realms by the Death of his present majesty, the parliament then in being, shall not be dissolved thereby, but shall continue until the next heir to the crown in succession, according to the late Act of Settlement, shall dis-

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a great stress was laid upon his information. The next day after, Mr. De la Rue made the same discovery, which he would have done before, but that his friend Brigadier Lewson, who designed to introduce him to the king, was gone out of town. Upon his return to London, Brigadier Lewson acquainted the king, that De la Rue had informed him of a design carrying on to assassinate his majesty, and proposed a way, if the king thought fit, how all the conspirators might be taken in arms. Though Pendergrass and De la Rue acted upon a separate bottom, yet they punctually agreed in all the circumstances of the Conspiracy; which rendered their discovery unquestionable: but yet both peremptorily refused to name the Conspirators, which might have been of fatal consequence, if the earl of Portland had not found the happy expedient to prevent it, by persuading his majesty to give himself the trouble of examining them separately in his closet. The king having accordingly examined Mr. Pendergrass before the earl of Portland, and the lord Cuts, and Mr. De la Rue, before the same earl and Brigadier Lewson, his majesty shewed himself extremely well satisfied in the truth of their discoveries; and in a very obliging manner exprest his resentment for their generosity, in the great care and zeal they shewed for the preservation of his life, and the safety of the kingdom; and at last gave them such unanswerable reasons, why, as men of honour and lovers of their country, they should compleat their duty and affection by naming the Conspirators, as quite overcame their former unwillingness, and prevailed with them to tell the names of the assassins, under the promise of not being made use of as Evidences. But not many days after, Mr. Pendergrass hearing that Mr. Porter, who engaged him in the Plot, had, by an allowable stratagem, been frighted into a discovery, and accused him; he thought himself discharged from any obligation of honour in concealing it, and therefore afterwards came in as an Evidence at Charnock's Trial.—The king having now a perfect knowledge of the Conspiracy, caused his Proclamation to be issued out for the apprehending the Conspirators, viz. the duke of Berwick, sir George Barclay, major Lowick, George Porter, capt. Stow, capt. Walbanck, capt. James Courtney, lieut. Sherburn, Brice Blaire, Dinant, Chambers, Boise, George Higgens, and his two brothers, sons to sir Thomas Higgens, Davis, Cardell Goodman, Cramburn, Keys, Pendergrass, Byerly, Trevor, sir George Maxwell, Durance a Fleming, Christ. Knightly, lieut. King, Holmes, sir Wm. Perkins, and Rookwood; with a promise of 1,000*l.* reward for every offender that should be taken, and brought to justice. The forces in England were ordered to be in readiness to march; a train of artillery was forthwith prepared to attend them; and admiral Russel repaired immediately to Deal, to take upon him the command of the fleet, which, by a particular providence, had been detained many weeks in the Downs by contrary winds; and which was soon reinforced by other men of war from the river, and twelve Dutch ships from Spithead; insomuch that in five or six days time, the admiral had near sixty men of war, with which he stood over directly to the coasts of Calais and Dunkirk, no less to the terror and amazement of the enemy, than to the disappointment of their designs; which were to invade England, as soon as they had received intelligence that the fatal blow was struck.

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solve the same. And that an humble Address be presented to his majesty, that he will please to issue his royal Proclamation, to banish all papists from the cities of London and Westminster, and ten miles from the same: and give Instructions to the Judges going the circuits, to put the laws in execution against papists and nonjurors.

An Association signed by the Commons.] And as the greatest test of their loyalty, the commons drew up this form of Association, to be subscribed by all the members.

"Whereas there has been a horrid and detestable conspiracy formed and carried on by papists and other wicked and traitorous persons, for assassinating his majesty's royal person, in order to encourage an invasion from France, to subvert our religion, laws, and liberty; We, whose names are hereunto subscribed, do heartily, sincerely, and solemnly profess, testify and declare, that his present majesty king William is rightful and lawful king of these realms; and we do mutually promise to engage to stand by and assist each other to the utmost of our power, in the support and defence of his majesty's most sacred person and government, against the late king James and all his adherents. And in case his majesty come to any violent or untimely death (which God forbid!) we do hereby further freely and unanimously oblige ourselves to unite, associate, and stand by each other, in revenging the same upon his enemies and their adherents, and in supporting and defending the succession of the crown, according to an act made in the first year of the reign of king William and queen Mary, intitled, 'An Act declaring the rights and liberties of 'the subject, and settling the succession of the 'crown.'"

This Association was the three following days signed by all the Members, who came to the house; and, because some others had absented themselves upon pretence of health or business, but in reality to avoid setting their hands to the Association, it was ordered, on the 27th of Feb. "That such Members, who had not already, should in 16 days sign it, or declare their refusal, notwithstanding their leave to be absent." On the appointed day, March 16, the names of such Members were called over, as were absent upon the last call of the house; and, several of them being still absent, the Speaker was ordered to write to those, who were in the country, and had not signed the Association, or declared their refusal to do so, to know what they would do, and return their answer by the first opportunity; and at the same time the clerk of the house was ordered to attend such members, as were ill in town, with the Association, in order to their signing the same, or receiving their answer or refusal. The absent members seeing themselves so pressed, and the nation at this time in so great a ferment against the disaffected, thought it prudent to yield to the times, and either to subscribe the Association, or promise to do it upon their first coming up to town, though it were against their principles to own king William to be rightful and lawful king. However, the Association was on the 3d of April presented to the king by the commons in a body, with this request, "That his majesty would order both that, and all other Associations by the commons of England, to be lodged among the records in the Tower, there to remain as a perpetual memorial of their loyalty and affection to his majesty." Whereupon the king told them, "That he took this as a most convincing and acceptable evidence of their affection. And, as they had freely associated themselves for his and their common safety, he did heartily enter into the same Association, and would be always ready, with them, and the rest of his good subjects, to venture his life against all, who should endeavour to subvert the religion, laws, and liberties of England." And he promised them, that this and all other Associations should be lodged among the records in the Tower. The next day, the commons made a Resolution, "That whoever should by word or writing affirm, that an Association entered into by any member of this house, or any other person, was illegal, such person should be deemed a promoter of the designs of the late king James, and an enemy to the laws and liberties of this kingdom."

Another by the Lords.] The lords resolved on an Association as well as the commons. The motion was much opposed by the earl of Nottingham, as that of the commons had been by sir Edward Seymour and Mr. Finch. Their objections turned chiefly upon this, that 'rightful' and 'lawful' were words, that had been laid aside in the beginning of this reign; that they imported one, who was king by descent, and so could not belong to the present king. They said, that the crown and the prerogatives of it were vested in him, and therefore they would obey him, and be faithful to him, though they could not acknowledge him their rightful and lawful king. Great exceptions were also taken to the word 'revenge,' as not of an evangelical sound; but that word was so explained, that these were soon cleared. Revenge was to be meant in a legal sense, either in the prosecution of justice at home, or of war abroad. And the same word had been used in that Association, into which the nation entered, when it was apprehended, that queen Elizabeth's life was in danger by the practices of the queen of Scots. At last the Association was carried in the house of lords, with this difference from that of the commons, that, instead of the words 'right'ful' and 'lawful' king, these words were inserted, "That king William hath the right by law to the crown of those realms; and that neither king James, nor the pretended prince of Wales, nor any other person, hath any right whatsoever to the same." This was done to satisfy those, who said, they could not come up to the words 'rightful' and 'lawful.' And, the earl of Rochester offering these words, they were thought to answer the

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ends of the Association, and so were agreed to. Ninety-two only of the commons, and fifteen of the peers, refused to sign voluntarily*.

The Association was carried from the houses of parliament over all England, and was signed by all sorts of people, very few only excepted. The bishops also drew up a form for the clergy, according to that signed by the house of lords, with some small variation; which was so universally signed, that not above 100 over all England refused it.

A Bill for the Security of his Majesty's Person.] April 2. Upon a Report of the Examination and Confession of sir Wm. Perkins and sir John Friend, it was resolved, That a Bill be brought in 'for the better Security of his Ma-'jesty's Person and Government:' and that the Heads of the Bill should be: 1. That such as shall refuse to take the Oaths to his majesty, shall be subject to the forfeitures and penalties of popish recusants convict. 2. To inflict a Penalty on such as shall by writing or otherwise, declare, that king William is not lawful and rightful king of these realms; Or that the late king James, or the pretended prince of Wales, or any other person, than according to the act of settlement of the crown, hath any right to the crown of these realms. 3. To ratify and confirm the Association entered into by all his majesty's good subjects, for the preservation of his majesty's person and government. 4. That no person shall be capable of any office of profit or trust, civil or military, that shall not sign the said Association. 5. That the same Penalties be inflicted on such as come out of France, as upon those that go thither.

A Bill for regulating Elections rejected.] April 10. The Act 'to regulate Elections of Members to serve in Parliament,' passed both houses, but had not the royal assent, when his majesty this day gave it to several other bills, most of them private ones. Upon this, the commons shewed some resentment against those that advised the king not to pass that Bill. The question was put April 24, "That whosoever advised his majesty not to give his royal assent to the bill, 'For further regulating Elec-'tions for Members to serve in Parliament,' which past both houses, is an enemy to the king and kingdom." But the majority finding by the warmth with which the party abovementioned espoused the affirmative, that it was intended to make a difference between the king and parliament, did not only put a negative upon the question by near 150 voices, Noes 212, Yeas 70; but it was ordered, That the Speaker do with the Votes print the question, together with the numbers of the affirmative, and negative.—It must be farther observed, That the Supply given to the crown this session, amounted to 5,024,853*l.**

The King's Speech at the close of the Session.] April 27. The king gave the royal assent to 'An Act for the better Security of his Ma-'jesty's Person and Government,' and other bills, and closed this Session with the following Speech to both Houses:

"My lords and gentlemen; you have shewn so great concern for my person, and zeal for my government, and have done so much for the preservation of the one, and for the strengthening of the other, by the good laws which have been made, and by the supplies you have provided for the several occasions of this year, that the late designs of our enemies are, by the blessing of God, like to have no other effect, than to let them see how strictly we are united; and to give me this occasion to acknowledge your kindness, and to assure you of all the returns which a prince can make to his people.—My lords and gentlemen, The necessity of affairs require my absence out of the kingdom for some time; I do earnestly recommend to you, that in your several stations, you will be assisting those whom I shall leave to administer the government; and that you will be careful in preserving the public peace of the kingdom."

Then the Lord-Keeper, by his majesty's command, prorogued the Parliament till the 16th of June.†

* Among the Commons, that refused to sign voluntarily, were, Simon Harcourt, Henry lord Hyde, John Manley, John Tredenham, Francis Gwin, sir Edw. Seymour, John Granville, John How, Robert Price, Tho. Brotherton, Mountague lord Norris, Heneage Finch, James Bertie, Wm. Bromley, sir Christ. Musgrave, William Williams, &c. The fifteen Peers were, Halifax, Normanby, Thanet, Chesterfield, Winchelsea, Scarsdale, Craven, Aylesbury, Feversham, Nottingham, Spratt bishop of Rochester, Watson of St. David's, lord Jefferies, lord Chandos, lord Ferrars.

* The Bill for establishing a Land-Bank, likewise passed this session, which Mr. Oldmixon calls a chimæra of Dr. Chamberlain's invention, under the patronage of Mr. Robert Harley. He adds, "The project was to raise 2,564,000*l.* upon the security of a Land-Company, who were to lend Money upon nothing but Land-security, or to the government. The Bank petitioned against it, but that did not hinder its passing; and the great house in Queen-street, late the lord Conway's, was taken for the Office, where proper officers attended, to carry on so notable a work; which, like the bubble of the brook, swelled with the wind, and burst again with it in an instant; to the great mortification of the said Mr. Robert Harley, who had been at no small pains to carry it so far as into an act of parliament."

† "After the conclusion of this session, many persons were apprehended and tried; some for being accessory to the intended Invasion, and others for being concerned in the Conspiracy to assassinate the king. Among these, the most distinguished were, sir John Friend, who had acquired great wealth as a merchant in the city, and sir Wm. Perkins, a gentleman of landed property, and one of the

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SECOND SESSION OF THE THIRD PARLIAMENT OF KING WILLIAM III.

The King's Speech on opening the Session.] October 20. The Parliament met at Westminster, and the king made this Speech to both Houses:

"My lords and gentlemen; I have called you together as soon as was possible, and I think it a great happiness that this year has passed without any disadvantage abroad, or disorder at home, considering our great disappointment in the Funds given at your last meeting, and the difficulties which have arisen upon the Re-coining of the money.—This is so convincing a proof of the good disposition of my Army, and of the steady affections of my people, that I cannot but take notice of it with great satisfaction.—Our enemies have not been without hopes that such a conjuncture might have proved fatal to us: but as they have failed in these expectations, so I am fully persuaded that your unanimous proceedings, in this session, will make them for ever despair of an advantage from any disagreement among ourselves.—It must be confessed, that the business which you have before you will be very great, because of the necessity of supplying former deficiencies, as well as making provision for the next year's service.—And upon this occasion it is fit for me to acquaint you, that some Overtures have been made in order to the entering upon a Negotiation for a general Peace: but I am sure we shall agree in opinion, that the only way of treating with France, is with our swords in our hands: and that we can have no reason to expect a safe and honourable peace, but by shewing ourselves prepared to make a vigorous and effectual war: In order to which, I do very earnestly recommend to you, Gentlemen of the House of Commons, that you would consider of raising the necessary Supplies, as well for maintaining the honor of parliaments in making good the Funds already granted, as for carrying on the war the next year: which I think ought not to be less than what was intended to be raised for that purpose the last session.—I must also put you in mind of the Civil-List, which cannot be supported without your help; and the miserable condition of the French Protestants does oblige me to mention them to you again,—My lords and gentlemen; It may deserve your consideration, whether there do not still remain some inconveniences relating to the Coin, which ought to be remedied: and I hope you will find out the best expedients for the recovery of Credit, which is absolutely necessary, not only with respect to the War, but for carrying on of trade. I am of opinion, that there is not one good Englishman who is not entirely convinced, how much does depend upon this session; and therefore I cannot but hope for your unanimity and dispatch in your resolutions, which at this time are more necessary than ever, for the safety and honour of England."

The Commons' Address.] The commons having appointed their grand Committees, for Religion, for Grievances, for Trade, for Courts of Justice, and for Privileges and Elections, resolved, nem. con. "That they would support his majesty and his government against all his enemies both at home and abroad, and that they would effectually assist him in the prosecution and carrying on the war against France: and that an humble Address should be prepared to be presented to his majesty pursuant to the said Resolution." Which Address was drawn up by Mr. Montague, Chancellor of the Exchequer, and presented to his majesty on Oct. 23d, by the whole house, in these words:

"May it please your most excellent majesty; This is the eighth year in which your majesty's most dutiful and loyal subjects, the commons in parliament assembled, have assisted your majesty with large supplies for carrying on a just and necessary war, in defence of our religion, preservation of our laws, and vindication of the rights and liberties of the people of England; which we have hitherto preserved; and, by the blessing of God, upon your majesty's conduct and good government, will stedfastly maintain and entail on our posterity.—This has cost the nation much blood and treasure, but the hopes of accomplishing so great and glorious a work, have made your subjects chearfully support the charge. And to shew to your majesty, and to all christendom, that the commons of England will not be amused, or diverted from their firm resolution of obtaining by war a safe and honourable peace, we do, in the name of all those we represent, renew our assurances to your majesty, that this house will support your majesty, and your government, against all your enemies both at home and abroad: and that they will effectually assist you in the prosecution and carrying on the present war against France."

The King's Answer.] His majesty in Answer was pleased to express himself thus:

"Gentlemen; The continuance of your zeal and affection is the thing of the world I value most, and I will answer it by all the ways I can think of: and I will make your good, and the safety of the nation, the principal care of my life."

Vote on the State of the Coin.] The commons entered with great alacrity upon the three great affairs that had been recommended to them from the Throne; to wit, The farther remedying the ill State of the Coin: the provid-

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clerks in chancery. Of ten who were condemned, eight were executed, and two pardoned. It is somewhat remarkable, that all the persons apprehended upon suspicion, were convicted upon the clearest evidence, and according to the forms of law, except sir John Fenwick, in whose case government found it necessary to have recourse to a bill of attainder. The sentiments of the nation were divided with respect to the propriety of this measure, and the severity of administration was generally condemned." Somerville.

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ing a Supply for the next year's service: and the restoring of public Credit. In order to remove the first and the last, the Commons resolved "That they would not alter the Standard of the Gold and Silver, in fineness, weight or denomination; and that they will make good all Parliamentary Funds since his majesty's accession to the crown, that have been made Credits for Loan from the subject." And because the circulation of Guineas was obstructed by reason of the want of other Coin, and by reason of the Act made the last session, to take off the obligation of Coining Gold, a Bill was ordered to be brought in 'For the giving leave to import Guineas, and to coin Gold at the mint.'

Estimates of the Charge of the Navy, and Army.] Oct. 28. The Commissioners of the Admiralty presented to the House, an Estimate of the Charge of the Navy for the year 1697; which for 40,000 Seamen, Wear, Tear, Ordnance, the Officers of two Regiments of Marines, the Registry-Office, and the Ordinary of the Navy, was computed at 2,523,954*l.*—The same day, the earl of Ranelagh presented a List of the Land-Forces, and the sums necessary for their Support, amounting to 2,709,713*l.* 12*s.* 10*d.*

Pamphlets censured.] The same day, complaint having been made of a printed Pamphlet, entitled, 'An Account of the Proceedings in the House of Commons, in relation to the re-coining the clipt Money, and falling the Price of Guineas;' they voted it to be false, scandalous and seditious, and destructive of the freedom and liberties of parliament: and ordered the said Pamphlet to be burned by the common hangman, and addressed his majesty to issue his Proclamation, promising a reward of 500*l.* for the discovery of the Author of that Libel. And two days after, the house being informed of a printed Paper, entitled, 'A summary Account of the Proceedings upon the happy Discovery of the Jacobite Conspiracy;' they resolved, That the printing the names of the members of their house, and reflecting on them for their proceedings in parliament, was a breach of the privileges of that house, and destructive of the freedom and liberties of parliament.

Supplies voted for the Land and Sea-Service.] Nov. 4. The house having considered the State of the War for the Year 1697, both in relation to the Navy and Land-Forces, they granted the sum of 2,372,197*l.* for the maintenance of 40,000 Seamen, and of the two Marine Regiments, and for the Ordinary of the Navy, and the charge of the Registry of Seamen; and the sum of 2,507,882*l.* both for the maintaining 87,440 men, which according to the List of the Land Forces delivered into the house, they voted necessary to be employed in England, and beyond the seas; and for the extraordinary Service of the Office of Ordnance, the pay of the General Officers, and the charge of the Transports, Hospitals, and other contingencies of the war. Besides which, they afterwards, on Dec. the 23rd, voted a Supply of 125,000*l.* for making good the deficiency in recoining hammered money, and the recompence to be given for bringing plate into the Mints to be coined.

Proceedings against Sir John Fenwick.*

A Bill of Attainder ordered.] Nov. 6. Admiral Russel acquainted the house, that his majesty had given leave to lay before the house several Papers in the nature of Informations

* From the Journals, and a small volume entitled "The Proceedings against sir John Fenwick:" printed at London in 1698.—"The great business of this session was a Bill relating to sir John Fenwick, who had been concerned in the late Assassination and Invasion Plot. This affair was of such a nature, that it deserves to be related in a particular manner. Fenwick, endeavouring to fly over into France under the borrowed name of Tho. Ward, was seized at New Romney in Kent with Robert Webber, an attorney, and from thence brought up to London, and, on the 11th of June 1696, committed prisoner to the Tower, and afterwards to Newgate. As soon as he was apprehended, he wrote the following Letter, with a black lead pencil, to his lady, but directed to Mrs. Farrar, her woman at the lady Carlisle's.

"'What I feared is at last happened. Had 'I come alone, I had done it; but the other 'was betrayed from London. It is God's will; 'so we must submit. I know nothing can save 'my life, but my lord Carlisle's going over to 'him (king William) backed by the rest of the 'family of the Howards, to beg it; and offering, 'that I will live abroad all his time, where I 'cannot hurt him; and that I will never draw 'sword against him. I must leave it to you 'what else to say. All friends must be made; 'my lord Devonshire may perhaps by my lady; 'my lord Godolphin and my lord Pembroke by 'my lady Montgomery; Mr. Nelson by the 'abp. of Canterbury; my lord Arran might 'engage his brother Selkirk to use his interest 'with Keppel. I believe, if my lord Carlisle 'would go, it were best, before my Trial; or 'else they will cut me short for want of time. 'If he can prevail with him for a pardon, he 'will procure it as well before my trial as 'after; at least, he may prevail for a reprieve 'till some can come over to him. My lord 'also will have an opportunity to engage Ben-'tinck, (the earl of Portland) and get my lord 'of Essex to join with him. I cannot think 'what else to say, but the great care must be 'the jury. If two or three could be got, that 'would starve the rest, that or nothing can 'save me. Money, I know, would do it; but 'alas! that is not to be had, nor shall I get 'enough for council. I beg of you not to think 'of being shut up with me: I know it will kill 'you; and besides, I have no such friend as 'you to take care of my business, though it 'would be the comfort of my life, the little

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of sir John Fenwick, in which he and several other persons of quality were named; and desired that they might be brought up to the table and read; and that he might have an opportunity to justify himself, or if he did not, that he might fall under the censure of the house. And Mr. Secretary Trumbal being present, did say, That he had his majesty's leave to lay those Papers before the house; and if the house pleased, he would bring them up to the table.

The said Papers were then delivered and read; after which it was ordered, That sir John Fenwick should be immediately sent for from Newgate; and that no persons should be allowed to speak, or deliver any Paper to him, or receive any from him by the way.

Accordingly, being brought to the bar of the house, the Speaker informed him, the house expected a full Discovery of all he knew; which was of the more consequence, because in some of the said Papers he had asserted, king James thought himself sure of the Army by means of the lord Marlborough; and of the Fleet by means of Killegrew and Delaval. But not having the face to charge sir Cloudesly Shovel with disaffection, he owned Delaval and Killegrew said, Shovel was not to be spoke to, but they would secure him, and let the French fleet sail by. He added, the lord Brudenel is out 6000*l.* That he did not write to king James in person, but his wife did. As to his own Correspondence with the abdicated king, he confessed he had two Letters from him, and no more; he said further, That being coming in his coach from Hyde-Park, he met General Talmash in his, in St. James's Street, that the latter beckoned to him to go into St. James's court; that they came out of their coaches and took a turn or two there, at which time Talmash whispered him, We shall serve both on the same side. He added farther, Brigadier Mayne promised to come over to king James's interest in Ireland; and he said, Indeed I wonder he did not. He confessed lieut. gen. Kirk had given king James the same assurances. That Sheerness was to be secured by the Deputy-Governor; that the lord Montgomery was in the Plot, and had been with him about it several times. That several great lords, as the duke of Shrewsbury, the earl of Marlborough, the lord Godolphin, Admiral Russel, &c. had accepted of Pardons from king James. After which, being prest by the

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'time it lasts, to have you with me. And I 'have this only comfort now left, that my 'death will make you easy. My dearest life, 'grieve not for me, but resign me to God's will. 'You will hear, as soon as they bring me to 'town, where they put me, and then I would 'have a servant or somebody with me. I am 'interrupted, so I can say no more now. En-'gage sir John Lowther, the new lord, who 'has more interest than any body. Let my 'lord Scarsdale engage Jermaine, to engage 'Overkirk for me. Speak to my lord Arling-'ton. If my trial could be put off till the king 'comes back, there would be more opportunity 'to solicit him.'"

"This letter, being delivered to Mr. Webber, the companion of sir John Fenwick's flight, was intercepted by the mayor of Romney, and brought to the lords justices. Sir John, who was ignorant of the miscarriage, at the first examination before their excellencies, denied every thing, which he was charged with. But, the lords justices producing his letter, and telling him, 'he was not of the same mind, when 'he wrote it,' sir John was confounded, and made no reply, being utterly silenced by such a confession of his guilt, attested under his own hand.—Fenwick's design of getting a jury, or making friends to the king for a pardon, being found impracticable, there was another expedient suggested by the earl of Peterborough, who, though he had been a great instrument in the Revolution, yet, to gratify his private resentment, advised sir John to set up a counterplot, by impeaching several of the king's best friends, as guilty of conspiring against him. Accordingly sir John, in his private treaty with the duke of Devonshire, desired an assurance of life, upon his promise to tell all he knew. But the king refused that, and would have it left to himself to judge of the truth and the importance of the discoveries, which he should make. So, resolving to cast himself upon the king's mercy, he sent him a Paper, in which, after a bare account of the consultations among the Jacobites (in which he took care to charge none of his own party) he said, that king James and those, who were employed by him, had assured him, that the duke of Shrewsbury, the earl of Marlborough, the lord Godolphin, and admiral Russel, were reconciled to him, and were now in his interests, and acting for him: that the earl of Bath was to betray Plymouth into the hands of the French king, and that commissary Crawford had sent over to France a list of the forces in England. This was a discovery, that could signify nothing but to give the king a jealousy of those persons; for he did not offer the least shadow or circumstance, either of proof or of presumption, to support this accusation. The king, not being satisfied with this, sent an order for bringing him to a trial, unless he made fuller discoveries. He desired to be further examined by the lords justices, to whom he, being upon oath, told some more particulars; but he took care to name none of his own side except those, against whom evidence was already brought, or who were safe and beyond sea. Some few others he named, who were in matters of less consequence, that did not amount to high-treason. He owned a thread of negotiations, which had passed between them and king James, or the court of France. He said, that the earl of Aylesbury had gone over to France, and had been admitted to a private audience of the French king, in which he had proposed the sending over an army of 30,000 men, and had

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Speaker to make a sincere Confession, he complained, he had been very hardly dealt with, for whatever he had said, the Answer was still, 'tis not satisfactory.' The house then resolved, "That the reflections contained in the said Papers on several noble peers, members, &c. were false, scandalous, and a contrivance to undermine the government, and create jealousies between the king and his people, in order to stifle the real Conspiracy." A motion was then made for leave to bring in a Bill to attaint sir John Fenwick of High-Treason; and after a debate the house divided, Yeas 179, Noes 61. Sir Thomas Trevor, then Attorney-General, was ordered to prepare and bring in the Bill.

Nov. 7. The said Bill was read for the first time, and the question put for a second reading; upon which the house divided: Yeas 196, Noes 104; and Friday was appointed for the second reading: and that sir John should have a copy of the Bill, and of the Order, and be allowed pen, ink, and paper; and that Mr. Attorney and Mr. Solicitor should be ready to produce the Evidence against him that day.

Mr. Manley, a Member, committed to the Tower.] In the course of this debate, Mr. Manley, a member, having dropt the following words, viz. 'It would not be the first time that 'people have repented their making their court 'to the government, at the hazard of the liber-'ties of the people:' exceptions were taken to the same, and though he endeavoured to palliate and excuse them, a Resolution passed, That for the said Offence he should be committed to the Tower; where he was detained till he petitioned the house to be enlarged.

Debate concerning the Mace.] Nov. 13. Sir J. Fenwick was brought to the house, by order, from Newgate; and there being a very great company of strangers, both in the Lobby and Speaker's chamber; and the house being full of members, to prevent the inconvenience that such a number of people crowding in might occasion, the Lobby was ordered to be cleared of all persons that were not concerned, and also the Speaker's Chamber, and that the backdoor of the same should be locked, and the key laid upon the table: but it having been said, that the Lords did admit the members of this house to hear their debates; there was private intimation given the Serjeant to let them remain in the Speaker's Chamber, when others were removed.

Then sir J. Fenwick was ordered to be

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undertaken, that a great body of gentlemen and horses should be brought to join them. It appeared by his discoveries, that the Jacobites in England were much divided; some of whom were called Compounders, and others Non-compounders. The Compounders desired securities from king James for the preservation of the religion and liberties of England; whereas the others were for trusting him upon discretion, without asking any terms, putting all in his power, and relying intirely on his honour and generosity. These seemed indeed to act more suitably to the great principle, upon which they all insisted, that kings have their power from God, and are accountable only to him for the exercise of it. Dr. Lloyd, the deprived bishop of Norwich, was the only eminent clergyman, who went into this scheme; and therefore all that party had, upon Sancroft's death, recommended him to king James to have his nomination for Canterbury. Fenwick put all this in writing, upon assurance, that he should not be forced to witness any part of it. When that was sent to the king, all appearing to be so trifling, and no other proof being offered for any part of it, except his own word, which he had stipulated should not be made use of, sent an order to bring him to his trial. But, as the king was slow in sending this order, so the duke of Devonshire, who had been in the secret management of the matter, was for some time in the country. The lords justices delayed the matter till he came to town; and then the king's coming was so near, that it was respited till he arrived. By these delays sir John gained his main design, which was to practise upon the witnesses. His lady began with captain Porter, who was offered, that, if he would go beyond sea, he should have 300 guineas in hand, more to be remitted to him upon his first landing in France, with an assurance of king James's pardon, and likewise an annuity of 300*l.* a year, of which Fenwick was to pay 100*l.* Captain Porter hearkened so far to the proposition, that he drew those, who were in treaty with him, together with the lady herself, who carried the sum, which he was to receive, to a meeting, where he had provided witnesses, who should overhear all that passed, and should, upon a signal, come in, and seize them with the money; which was done, and a prosecution upon it was ordered. The practice was fully proved, and the persons concerned in it were censured and punished. So captain Porter was no more to be dealt with. Mr. Cardell Goodman, who had been an actor, was the other witness. First, they gathered matter to defame him, in which his course of life furnished them very copiously. But they trusted not to this method, and betook themselves to another, in which they prevailed more effectually. They persuaded him to go out of England; and by this means, when the last orders were given for Fenwick's Trial, there were not two witnesses against him; so that by the course of law he must have been acquitted. The whole was upon this kept intire for the session of parliament. Admiral Russel therefore, on the 6th of November, acquainted the house of commons, that his majesty had given leave to lay before them the several Papers, which had been given in by sir John Fenwick, in the nature of informations against himself and several other persons of quality; and he desired, that those papers might be read, that so he might have an opportunity to justify himself; or, if he did not, that he might fall under the censure of the house." Tindal.

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brought to the bar: but it being a proceeding of that nature, that none of the ancientest members could give a Precedent, it was necessary to settle some preliminaries; and the first Question that was moved, was, Whether the Mace ought to lie upon the table when sir J. Fenwick was in the house, or whether the Serjeant ought not to stand by him with it at the bar?

Mr. *Smith.* Sir J. F. being a prisoner, the Mace ought to be at the bar, and then no member can speak.

Mr. *Boyle.* This hearing, of any thing I can think of, is most like the hearing of an election; and then the mace is upon the table, and every one has liberty to speak and ask questions.

Mr. Chanc. of Exchcq. (Mr. Montague.) The mace ought not to be upon the table, because he is a prisoner: the sheriffs of London cannot have him in custody here, and so they deliver him into custody of the Serjeant.

Mr. *J. Howe.* That argument would be good, if he could not be in custody of the Serjeant unless he had the mace in his hand.

Mr. *Brotherton.* The mace ought to be upon the table, because the Bill is to be read.

Mr. *Chr. Musgrave.* The mace ought to be upon the table. Never any Bill was read but the mace was upon the table.

Col. *Granville.* If the mace be not upon the table, it would be a great hardship to the members that they cannot speak, and a great hardship upon the prisoner that he cannot ask any questions. My lord Torrington was brought prisoner from the Tower, and upon account of his quality the house did not let him go to the bar: but while he was in the house, the mace was upon the table, and he gave an account of the whole Campaign; and every body was at liberty to ask what questions they pleased.

Mr. *Att. Gen.* (Sir Tho. Trevor.) The matter is very new; and I think it is necessary you resolve upon the method before you call in the counsel, that you may acquaint the counsel with it; I think it not proper that the mace should be upon the table, because he is a prisoner; though it may not be necessary that the Serjeant should have it upon his shoulders all the time, but he may ease himself. I believe you will ask sir J. F. what he has to say, but no questions to make him accuse himself: and I humbly propose it to you, that after the counsel is called in, they may open the nature of the Evidence against sir J. F.; and then, whether you will permit them to go on, or they shall withdraw, and the house will consider what questions shall be asked.

Col. *Mordaunt.* I hope the questions will be taken down upon a paper by the Speaker, and then read to us, that we may see if they be right, and so asked by the Speaker.

Sir *W. Williams.* If the mace is not upon the table, our mouths are muzzled: we are in the nature of Judges; and shall we pass a vote that the judges shall not ask any questions?

Sir *Tho. Dyke.* I can't be informed without asking of questions: I know not whether you are a house without it, without having the mace upon the table. And will you act in your highest capacity without being a house? When the duke of Leeds was here, the mace was upon the table.

Mr. *Boyle.* I wish you had appointed a Committee to have settled the preliminaries, and that the Bill had not been brought in at all; what they labour, as a matter to avoid delay, may occasion more. For though, when you carry the mace to the table, no member should have the liberty to speak, yet any member hath liberty to desire that the counsel may withdraw, and then they must withdraw, and the mace must be brought upon the table.

Chanc. of Exchcq. That gentleman is certainly in the right: but I think the mace must not be upon the table till when the prisoner is here; and I think the questions must be asked by the Chair. The longest examinations that I remember was of the Admiralty, and then the questions were asked by the Chair. For the instance of my lord Torrington, it is true, he had not the mace with him, but he came at his own request, he came to give you an account of his proceedings; and in that case not a question was asked by any member; any member hath liberty to propose any question, but it must be asked by the Chair.

Afterwards the question was put, and it passed, "That sir John Fenwick should stand with the Mace at the Bar."

Then a Question arose about reading of the Bill: some gentlemen said, it could not be read when the counsel was present, for the mace would be off the table; (and they seemed to be under a difficulty by having passed the last question;) others said, it was not necessary to read it whilst sir J. F. was present, he having had a copy of it; but at last it was thought reasonable, it being in the nature of a Charge upon him, that it should be read to him when present with his counsel; and it was said, it was done so in the Case of Indictments, though copies were delivered to them: but it should be read only as a matter of form, as a charge to which he was to answer; but it could not be reckoned a second reading, according to the rules of the house, the mace being off the table; and therefore it should be read again when the counsel and he was withdrawn.

And it was said, that the Journals did take notice, that in some cases, as in the case of an adjourned debate, some Bills had been read four times; and so it was agreed, and that difficulty was solved.

The Bill read to Sir John.] And the Serjeant took the mace, and brought sir J. Fenwick to the Bar; and counsel was admitted for him, and for the Bill, viz. Mr. Serj. Gould, King's Serjeant, and Mr. Recorder Lovel, likewise King's Serjeant. And sir Tho. Powis, and sir Barth. Shower, for sir John Fenwick. And the Speaker opened the matter thus:

Mr. *Speaker.* Sir John Fenwick, the house

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have received Information that you have been in a horrid Conspiracy against the life of his majesty, and for bringing in a French force to invade this kingdom, that you have been indicted thereof; and they have considered the nature of the crime with which you stand charged, and how destructive it would have been, if it had succeeded, to the very being of this kingdom; and therefore, that you may not go unpunished, if you are guilty, have ordered a Bill to be brought into this house to attaint you for High Treason, which hath been once read, and will be now read to you at the bar; and then you will hear the Evidence against you, and have liberty to make your Defence: and though you cannot claim any right thereto, this house (to shew how ready they are to favour you, in giving you any reasonable help to make your Defence) do allow you Counsel to assist you therein; and having granted you this their favour, they do expect that you will make a good use of it. I am likewise to acquaint those that are your Counsel, that this house do reckon their own prudence will so guide them, as not to give any just offence to this house; and that they will not be allowed to question the power of parliaments to pass Bills of Attainder, when they judge it requisite; of which this house is more proper to judge than any private person, and therefore they will not allow you to debate that point. Let the Bill be read.

[Clerk of the house of commons reads.]

'Whereas sir John Fenwick, bart. was, upon 'the oaths of George Porter, esq. and Cordel 'Goodman, gent. at the sessions of Oyer and 'Terminer held for the city of London, on the '28th day of May, 1696, indicted of high trea'son, in compassing and imagining the death 'and destruction of his majesty, and adhering 'to his enemies, by consulting and agreeing 'with several persons (whereof some have been 'already attainted, and others not yet brought 'to their trial for the said treason) at several 'meetings, to send Robert Charnock, since at'tainted and executed for high treason, in con'spiring to assassinate his majesty's sacred per'son, whom God long preserve, to the late king 'James in France, to invite and encourage the 'French king to invade this kingdom with an 'armed force, by promising to join with and 'assist him with men and arms upon such in'vasion. And whereas the said sir John Fen'wick did obtain his majesty's favour to have 'his trial delayed from time to time, upon his 'repeated promises of making an ingenuous 'and full confession of his knowledge of any 'design or conspiracy against his majesty's per'son or government, and of the persons therein 'concerned. And whereas he has so far abused 'his majesty's great clemency and indulgence 'therein, that, instead of making such confes'sion he hath contrived and formed false and 'scandalous papers as his informations, reflect'ing on the fidelity of several noble peers, di'vers members of the house of commons, and 'others, only by hearsay; and contriving there'in to undermine the government, and create 'jealousies between the king and his subjects, 'and to stifle the real conspiracy. And whereas 'Cordel Goodman, one of the witnesses against 'the said sir John Fenwick, to prove the said 'treason, lately and since the several times ap'pointed for the trial of the said sir John Fen'wick, at one of which times the said sir John 'Fenwick had been accordingly tried, had it 'not been for the expectation of the said dis'coveries so often promised, is withdrawn; so 'that the said Cordel Goodman cannot be had 'to give evidence upon any trial. Be it enacted 'by the king's most excellent majesty, by and 'with the advice and consent of the lords spi'ritual and temporal, and commons in this par'liament assembled, and by the authority of 'the same, That the said sir John Fenwick is 'hereby convicted and attainted of high trea'son, and shall suffer the pains of death, and 'incur all forfeitures as a person attainted of 'high treason.'

Mr. Serjeant Gould opens the Charge and the Evidence.] After the reading the Bill, Mr. Serjeant Gould opened the Charge and the Evidence; but for the Pleadings on each side, we refer the reader to the State-Trials.

A Debate thereupon.] Sir John, and the Counsel on both sides, being withdrawn, a Debate arose, whether sir John should be allowed further time to produce his Witnesses?

Mr. *Speaker.* Gentlemen, you have heard what is stood upon by the Counsel for sir John Fenwick: they say if you call only Evidence to prove the suggestions of the Bill, they are ready to answer them; but if you call any evidence to prove sir John Fenwick guilty of a Conspiracy, by living witnesses, they pretend they are not ready, and say, They did not know they should be allowed liberty to produce any Witnesses.

Sir *T. Littleton.* The Counsel could not think that the Bill should set forth that sir J. F. was indicted, but that the house would know by what means; and that Goodman was gone away, and we should not enquire by what means. What are the objections by the counsel against the Bill? Say they, we are ready to give reasons against the bill; they do not say down-right against your jurisdiction: but, say they, we are ready to shew it is not reasonable in this case, as stand circumstances, to pass this Bill; Sir John's Petition was to be heard down-right against the Bill. If that was your intention to hear him to that and to that only, I conceive you would not have worded your Answer as you did: you ordered him Counsel to make his Defence: and at the same time ordered the king's counsel to produce the Evidence: How could they understand it, but to make Defence to the Evidence? It may be they have a mind to have another fee: Whether you will think fit, in the circumstances you stand, to give them further time, I do not know; But the circumstances of the kingdom, and the king's life, must be considered as well as sir J. F. What is the meaning that they are not prepared? I suppose it is to have further time;

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but I think your order is so plainly worded, that they could not ignorantly mistake it.

Lord *Norryes.* I rise up to the matter of fact: that gentleman tells you your order is plainly worded; it is so, if they had timely notice of it: but the counsel at the bar tell you, they had no notice of this order till 10 last night.

Mr. *Speaker.* That noble lord does mistake; for that which they say they had no notice of till last night, was, that sir J. F. should be brought hither; but the notice that he should be heard by his counsel for his Defence was sent him the day before.

Lord *Norryes.* This very order, for his majesty's counsel to produce the Evidence, was made but upon Thursday.

Mr. *Speaker.* Then I mistake. But the order that was made upon his Petition, I sent away immediately: but the order they mean, I suppose, is that for the bringing him hither.

Mr. *Cowper.* Say the counsel for sir J. F. We come prepared to make Defence to every thing charged in the preamble of the Bill, but what is not charged, we do not come prepared to make defence to. Now, they conceive the fact of High-Treason is not charged upon him by the Bill; and if true, it is of great weight; but as it is, it is none: for first, it is plain the preamble recites, that he was indicted for high-treason by the grand jury; that is a charge of high-treason within the bill; for it says, he was charged by the oaths of his country upon the oaths of two witnesses; and there is the very overt-act recited in the preamble of the bill. Now, allowing this its due weight, can any one think, that sits here as a private judge, that the high-treason thus recited, as found by the grand-jury, was no part of his charge? The very nature of the bill speaks; for could any one think, that you would ground a Bill of Attainder upon a suggestion, that he being indicted of high-treason, had spirited away one of the king's evidence, or for giving false information? So that this is trifling with the house, with submission.

Sir *R. Temple.* Can any body say any thing of the intention of the house, when it is reduced into a Bill? Is it not the bill that he is to make his defence to? and the gentleman that spake, says that nobody could think otherwise: Why, sir, nobody is to think otherwise than the Bill states it. Now the thing before you is, Whether upon the suggestions of this Bill it is fit for you to pass it? The Case of Mortimer was, That he made his escape, being under an Indictment of High-Treason; and it came before the house, Whether, upon the statute of 25 E. 3rd it was High-Treason? But they did not debate the fact. Now you have brought a bill here, and all the ground is, that he was indicted for high-treason, had thus and thus prevaricated, and delayed his Trial upon promises of Confession; and in conclusion, one of the witnesses is withdrawn: Sir, no man is to make his Defence but to what is in the bill; nor can you examine to any thing but what is suggested in the bill. If you had put the issue upon the guilt of sir J. F., he must have a fair trial in some place, and that he cannot have here upon oath; for upon all Bills of Attainders they have had a fair trial above.

Mr. *Smith.* I always thought, when a Bill of Attainder was to pass through this house, that every man was concerned to hear what Evidence he could, to make it appear whether the person was guilty of the facts that were alledged against him to condemn him for; and I take it, the principal thing to be considered is, whether he be guilty of such a crime as deserves such a punishment; so that, I take it, the question now is, Whether sir J. F. hath had that notice to produce his evidence, as is convenient? For I think we should lose time to let counsel ramble upon the reasonableness of our proceedings; the question is, Whether he is guilty of the fact? Sir, I can never think the counsel could understand your order, when it says, to make his Defence, but it must be to the fact upon which he is to be condemned. You have already determined that point, as to his prevaricating, but that is not the matter that shall make me find him guilty: but the Evidence that will weigh with me is the evidence of high-treason, and how far they can answer it.

Mr. *Hooper.* The question is, Whether or no there be a sufficient guilt laid to this man's charge? For in all courts of judicature this is a certain rule, You must proceed *secundum allegata et probata;* and you shall not go about to prove a thing unless it be alledged. Now the question is, Whether this thing be alledged in the whole Bill, that sir J. F. is guilty of high-treason? And if not, you will go about to prove what is not alledged. It is true, it hath been alledged that a Bill hath been found; but several have been indicted who have been acquitted. It is possible the prisoner may be guilty; but I think we must observe that method here, that is observed every where else, and that is, not to go about to prove any thing that is not alledged.

Mr. *Clerk.* The learned gentleman hath made an objection that perhaps would hold very well in Westminster-Hall: but I suppose he may remember this Bill must have a second reading before you, as a house; and then perhaps the allegations may be different from what they are now. But the principal matter before you is, Whether this gentleman be guilty of high-treason, or no? And if they did not prepare to that part, I think they were negligent to their client; for it appears to be that part that is most sensibly like to affect him.

Mr. *Howe.* The more I hear the matter debated, the more it seems strange to me. I have heard the Bill read, and took notice of the heads of it: I always understood the preamble of the Bill to be the inducement to the end of it: I was mightily surprised to hear the king's counsel attempt to make good——I think they did not speak materially to one point of the allegations in the Bill, so that the allegations do signify nothing: or else, if they intended these

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allegations should signify any thing, we must have these allegations proved before we pass our judgment upon the Bill: whereas the counsel, instead of endeavouring to prove that he was indicted for high-treason, (though hinted at) would prove him guilty of high-treason; instead of proving that he had prevaricated, they say not one word about it; instead of proving that he has forged papers, in order to alienate the minds of the king's subjects, they say nothing to it, though in the Bill it is alledged as high-treason.—We must not go here upon private fancies and opinions; no man that heard my lord Delamere's Trial but believed him to be guilty of the fact; yet he was acquitted, because there was no evidence sufficient against him. I think you must stick to one of these points; if you stick to this, to prove him guilty of high-treason, you must alter the Bill; and then that must be proved out of the mouths of two witnesses. If you please to stick to the bill, then I hope the king's counsel will go on to prove the allegations of it, or let us know why they do not: I shall no more give my vote to hang him, because he is indicted of high-treason, than I shall because he hath been in Newgate.

Mr. *Sloane.* I think a great deal of your time in debating this matter may be saved; though I will allow, the Bill might have been drawn better, and that a bar-indictment is not a sufficient ground of itself for a final decision of this matter: but when at the time of finding the Indictment there were two witnesses, and one of them is withdrawn, and as is supposed, by his means; if the Bill seems imperfect for any thing before you now, you will not stay all the proceedings upon it; but if you see it imperfect, and it may be amended, you will amend it at the committee. I think the favour you have given is abused, and that it is perfect trifling from the bar. In one breath they say, they could not get ready, for they had no notice 'till last night; and in the next place they say, they will go on to every thing but his being guilty; and I believe they never will be prepared for that.

Mr. *Attorney General.* I am very unwilling to speak any thing in this matter; because, sir, by the place I have the honour to serve his majesty in, as one of his counsel, if it was in the courts below, I must prosecute on behalf of the king: but I am very sensible while I am in this house, I am in another capacity; I am to vote here as a judge, and not as a party. That which I do now trouble you about, is in relation to the matter that hath been objected; That the Bill does not expressly affirm, that sir J. F. was guilty of high-treason, but only that he was indicted for it. Truly I thought, and do still, with humble submission to the house, that that matter of affirming him to be guilty of high-treason was not to be inserted in the bill; for that will be the consequence of your judgment and opinion, upon hearing of the evidence. That worthy member that spake last, said, the Bill might be better drawn; I am sorry we had not his assistance in it: But, with submission to his understanding, I think that had been too much presumption, till you are satisfied whether he was guilty or no. We could only go so far as to set forth the faults that we knew; as, that he was indicted, that we can verify, and cannot take this to be like the case of an indictment; for there you must affirm such and such things that cannot be altered afterwards. But a bill in parliament hath many steps; you read it several times, and commit it; so that you alter the suggestions of the bill, as the case appears to you to be verified; and if you be of opinion that he is not guilty, you will not condemn him because he is indicted: however, that is not unmaterial, but proper to be set forth for a ground of your proceedings, that there was a probability of his being guilty from that accusation. Therefore, sir, I confess I can't think that those gentlemen that are counsel for sir J. F. could think, that you did intend to proceed otherwise than to hear counsel as to the fact: they could not think that upon proof of his being indicted, that that would be ground enough for you to proceed to pass the Bill: for how could any body think, but you would come to examine the fact? I can't see how they should come to mistake, unless it was wilfully.

Mr. *Price.* The matter now debated, is, What method shall be followed, or what evidence shall be given upon this Bill? or whether evidence shall be given of any other matter than is suggested in the Bill? I must confess, making a false step at first setting out, hath put us out of the way hitherto; for in the case of my lord Strafford, witnesses were examined, and adjudication that he was guilty, before any order for a Bill of Attainder. But since you are in this way, consider whether the counsel against the Bill have gone according to their order: the order was, that counsel should be heard to prove the suggestions of the Bill: and the counsel for sir J. F. do not oppose that: but the counsel for the Bill open more things than are comprehended in the suggestions of the Bill: for the suggestion is only a recital, and hath no positive averment. And though the Bil and an Indictment is not the same, yet they must be the same in this, to put a charge upon the person. If the preamble is not to any purpose, what need they have made any, but have said only, Let him be attainted? To what purpose does sir J. F. come to the bar? If it is to any purpose, it is to answer the charge of the Bill. That learned person says, to suggest that he is guilty till the matter is proved, then there must be an amendment in that point, and that will make it a new Bill, and then he must have another day to answer the new charge: but they might as well have said he was guilty of high-treason, as to say in the enacting part, that he should be attainted. Therefore, if the gentlemen for the Bill will proceed and prove the preamble of the Bill, let them; otherwise let there be another day for

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sir John Fenwick to attend, and let them do all together.

Sir *Christ. Musgrave.* I think, as to that learned person, nothing is to be laid to his charge, for I think they have drawn the Bill pursuant to the directions; and I am sure if they had drawn it otherwise, before they had known the sense of the house, I think they had been guilty of a crime. That which seems to be before you, is, what was opened by the king's counsel, and that was to prove the treason. Now, sir, I would be glad to know of any person, whether any thing is to be admitted to be proved at your bar but what is in your bill. For let us have a little regard to the proceeding in Westminster-hall: Can any person, upon an Indictment of high treason, offer evidence of any treason but what is expressed in the Indictment? And I think this is the same in effect; for here you draw a bill of attainder against sir J. F. and in justice you send him a copy of it, and, with great favour too, you allow him counsel to defend himself to that, as to the suggestions that are in the Bill; otherwise, to what end did you send him the copy of the Bill? Now, if you will admit of any thing to be proved but what is in your Bill, I know not of what dangerous consequence it may be, for 'tis impossible to be prepared for it.

Mr. *Solicitor General.* If the counsel against the Bill could be any way mistaken, or think the bill defective, I am for giving them longer time to make their best defence; but think neither one nor the other of them true; but your order was to draw a Bill for attainting sir J. F. of high-treason; and I think if the bill had gone no farther, but enacted that he should be attainted of high-treason, we had strictly pursued your order; for the preamble is no necessary part of the Bill. A Bill and an Indictment are of quite different natures; there is a form for an Indictment, but no precedent for an Act of parliament. As to the Preamble, the debate, when it was ordered, went no farther than that he was accused of high-treason, and was like to have been brought to his trial: and to delay it, he pretended to make an ingenuous Confession; and instead of that, there was produced a Paper which you have censured, as you thought fit, and upon that you voted a Bill to be brought in to attaint him of high-treason: what then could be expected more for the inducement, but the debate upon which it was ordered?—If this house had thought fit to examine witnesses before, as now, no doubt but the Bill would have suggested that he was guilty of high-treason; but it is time enough for you to suggest that, after you have heard what witnesses there are. If the counsel did not know this, notwithstanding all that I have said, I am for giving them time; but, with submission, it was impossible for them to mistake it: If the Bill had went no farther than, 'Be it enacted, that 'he should be attainted of High-Treason,' then they had some colour to say there were different species of high-treason, and they could not tell to what particular facts they must apply themselves: But when the Indictment is recited, which charges him with particular facts, and tells him by what witnesses the Bill was found, it was impossible not to know that this was the high-treason you did intend to enact that he should be attainted for: but when they say they are not ready, truly there may be some reason for it; for I believe they never will be ready: Sometimes men will be wilfully mistaken, and sometimes it is their misfortune to be so. They say they are mistaken; which of these are true, I know not, but we have seen already the time when he hath trifled with the courts of justice; he hath delayed his trial till one witness is withdrawn; if you give him longer time, he may have the good fortune to have the other gone too. I see no reason for you to forbear hearing of the Evidence.

Mr. *John Montague.* I am not surprized to hear sir J. F. desire time; for giving him time is giving him life; nor for his counsel to tell you his Witnesses are not ready; it is a common excuse; I hardly ever knew a person brought upon his trial, but that was his excuse; and yet I have seldom known it allowed as a good excuse: But it is objected, you must go *secundum allegat' et probat';* and nothing being in this bill like what the counsel for the bill did open, it is not fit to hear them call witnesses to what is not alledged in the bill. I grant that; and yet I think they ought to be allowed to call witnesses to prove every thing they have opened to you: It is agreed they ought not to have brought in a Bill, to say in point blank terms, he is guilty of high-treason; but they say, you should have charged with what treason he is accused of, and then they should have been admitted to prove it. With submission, the Bill does that thing; for the bill does recite, that he is indicted of high-treason, in compassing, &c. This is the treason that is charged upon him by this very bill: now sure you will permit them to prove what is alledged in the bill. What did the counsel for the bill open? That at several meetings they met to consult of the matter that this bill takes notice of. Did not he tell you when Charnock came first there for that purpose, and when Charnock met them again for their assurance? Now this being so plainly set forth in the bill here, which recites, that this matter was proved by two witnesses, upon the credit of whose testimony this matter was found, and that one of them is gone away; and, say they now, we are ready to prove the matter then sworn: Is not that proper to satisfy gentlemen's consciences that won't convict this man without evidence?

Sir *Fr. Winnington.* I humbly conceive the question is not now, Whether sir J. F. is guilty, or no? But, Whether the objections the counsel for him have made, be so strong as you will grant what they move to you? They tell you, if counsel will proceed upon nothing but what is suggested in the bill, according to your order, we are ready to make our Defence. It was said the king's counsel was ordered to give

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their evidence; that can have no interpretation but as to the matters in the bill.—Says the king's counsel, We will prove him guilty: Says the counsel on the other side, I hope the house will give us time to encounter them in that, for you have no such thing in the bill; the sending them the copy of the bill was as much as to say, You need not prove any thing but what is therein asserted. It was said by the learned gent. there, that there might have been an act of parliament which might have said only, 'Be 'it enacted, that such a man be attainted,' without giving any reason. I cannot deny but it might be so without any reason, but I don't believe it will be so. And another learned person was for mending of the bill. Says he, When you have the matter of fact proved before you, it may lead you to the amending of the bill, and inserting what you please, and enacting of it; but does not answer what the counsel said on the other side: Would you have us answer what we did not know that you would stand upon? The question is not, Whether he be guilty or no? But, Whether the objections that are made be good to give them time?

Col. *Granville.* Sir, the counsel, by what I observed from them, have started two difficulties, and really, to me, both seem very material; the first is, Whether the king's counsel shall be at liberty to prove any thing that is not suggested in the bill? The other is, Whether sir J. F. had due notice to make his Defence?—The first is a matter of very great moment: You are proceeding upon a bill where not only the life of sir J. F. but the life of every man in England is in some measure concerned: When a precedent is made in this case, nobody knows who may be affected or hurt by it; and therefore I desire you will settle that matter, and have the judgment of the house, whether they will admit the counsel to prove any thing that is not suggested in the bill? If you will, I do not see how any man that stands at the bar of your house, can be prepared to make his Defence. For there shall be one crime alledged in the Bill, and when he comes to the bar, the counsel that are to prosecute, shall go quite off from that which is laid in the bill, and produce you evidence to a new crime; and he stares and looks round him, and you had as good allow him no counsel, or copy of the bill. This you thought so necessary for every man that was to come upon his trial for his life for treason, that you altered that trial, and declared no man should have any treason proved against him that is not alledged against him in the Indictment.—We have had great complaints of Westminster-hall; and if the parliament should proceed in this manner, may have the same again. If they are too rush in their proceedings, they will be countenanced mightily in them, if you should proceed against a man, and condemn him for one thing, when he is accused of another. I desire to know, how we can proceed in a bill upon which sir J. F. is to be proved guilty, and he hath no opportunity to answer it? I take it, as this bill is drawn, sir J. F.'s guilt is no way concerned in it: For whereas the worthy gentlemen tell you the treason is specified, there is no treason specified, otherwise than he is indicted for it.

Mr. *George Rodney Bridges.* Sir, I think the proper question before you is, Whether you will allow sir J. Fenwick time to produce such witnesses as he shall desire for his justification? It is a little strange to me, that the gentlemen that are of sir J. F.'s counsel should insist upon those things, to desire farther time for his preparation, when (I think) it is very plain, they were told what they were to prepare for by the bill; which was, they were to justify sir J. F. against those things he stands indicted for; and the matter of the indictment is the thing to be proved before you, and the witnesses to make it good are likewise mentioned; one of them is gone, but his testimony remains upon oath, not only to the grand-jury, but in another place, that I am told of: I do not think you will think it reasonable, after the king's counsel have made out their evidence, to give him time to make their observations upon the charge; so you will consider before you hear the king's counsel, whether you will allow him farther time, or no.

Sir *Jos. Williamson.* The gentleman that spoke last states the case to be, Whether you will think it reasonable to allow sir J. F. farther time to produce his witnesses? You may, sir, make that the question; but that will depend upon another, which is, Whether you think that sir J. F. had not notice enough to prepare to defend himself against the charge contained in the preamble of the bill? And I add this further, Whether the manner and way of expressing that particular charge in the bill, is not so worded, so charged, as here expressly to become a charge that he is to answer for, and not only as a matter of fact historically related, now to come in proof here: For if it proves to be well charged in the preamble, it is a particular fact of treason he is to answer for in this house; and then he hath had time enough; so that now you are to judge of your own way of expressing yourselves. I believe every gentleman knows it was the sense and meaning of the house, that those are the particular treasons mentioned in the indictment with which he should be charged at the bar, and have time and liberty to defend himself; and not only to the allegations, that he had been indicted, &c. Now, sir, if you shall allow these gentlemen to except against your way of expressing yourselves, that I submit to you: But it is clear to me, that this was a very good and proper way of expressing yourselves, to charge him with these facts, and to give him liberty to disprove it. If he and his counsel understood it otherwise, the question is, Whether their differing with you in the way of expressing it, shall be allowed to them, without taking a reasonable exception to it? You are tyed here to the strict rules of justice; but as to the forms of proceeding be-

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low, I do not think you are. Our meaning was, most certain (though he was indicted, that it was nothing to us), that they should bring their proof to our bar to prove him guilty; and if you should give him two or three days time, you must mend your bill to their way of expression, and to their sense.

Mr. *Brotherton.* I take the question to be now, Whether the king's counsel should give evidence of any other matter than what is alledged in the bill? As to that, I must observe to you, that this bill does not set forth any particular charge against him; it does not say, that he such a day did such a fact, whereby he can make his defence; it is only the recital of an indictment; and it does not say the particular time and place where the fact was done. Now as to what that gentleman says, if it had been said generally, that he should be attained, it had been sufficient. 22 H. 8. the statute for attainting one for putting poison into a pot, &c. there is the day and year when the fact was committed; and so he might make his defence. Then the king's counsel offer to prove, that this Goodman was conveyed away by sir J. F. and there is no such charge in the bill; for the bill only says, that he is withdrawn; and I am of opinion they ought to give evidence of nothing but what is in the bill.

Mr. *Whitaker.* As to the Exceptions made by the counsel to the insufficiency of the Bill, by which they pretend sir J. F. was led into an error, so that he had no due notice, I must needs say, if they were in Westminster-Hall they would be in the right: but this house is not bound to those forms: for I believe the enacting clause would do the business of sir J. F. well enough, if all the rest were laid aside; and I will consider it with as much tenderness and conscience for the prisoner at the bar, as any that brings arguments from Westminster-Hall. I would consider, whether such a defence as they have made, that from the bill (as to what is laid in it) he had not notice enough to prepare to make his answer: They say, a recital is no direct affirmation in civil matters: It is an affirmation; for to say, 'Whereas such a 'one is bound,' is good in a declaration upon a bond. Now I would know, whether this be not enough, to say, That he is indicted, without any allegation that he is guilty? Had the bill no recital at all, it had been an objection; but it may be, it had been such an objection, that they ought to have done something of their parts, as to have desired the opinion of the house to what they should have answered: for suppose there had been no recital at all (and you may make what recital you think fit) what should sir J. F. have done? There are some instances at common law: A man is indicted for being a common barrater, and there are no instances given in the indictment; why then he comes and prays the court, that they may declare what instances they will give, and that they may give no other words in evidence: therefore I question not but that should have come on his part; he is to be heard as to the enacting part of the bill; and under favour, you could do no otherwise. Now if they do offer to give evidence of any treason that is not specified in the recital of the bill, and the counsel make an objection to it, I shall agree with them.

Sir *Ed. Seymour.* My lords, * and you Mr. Speaker, what hath been said to you by that worthy person that spake last, no doubt, is true; that if there had been no more than the enacting clause, it would have done sir J. F.'s business with a witness, or rather without a witness: But that is not the question we are disputing here; but the question is, Whether you will give sir J. F. longer time to make his Defence to that part he insists on, that is not contained in the bill? You are well satisfied that you cannot go through with the suggestions to-night, [past 3 o'clock,] and the debates, and what relates to it; and I find no person against putting it off, but because it would be a delay; and if it be no delay, that reason is out of doors. —They tell you, the counsel could not but take notice of the matters suggested in the indictment: I cannot think that is reasonably argued; because they do know the practice and method is such, that they can take notice of nothing but what is specified and contained in the bill. And therefore, there being no guilt charged upon sir J. F. in the bill, is it reasonable they should come and accuse themselves here, or make a defence to what is not charged? No; but, say they, it is implied: This is an untrodden path, and you ought to walk as securely in it as you can. It is extraordinary that you bring sir J. F. here to answer for treason, when it is allowed in the suggestions of the bill, you have but one witness to that treason; and when you take these extraordinary steps, you should comply with him as much as you can in the forms. For if treason be not treason unless it be proved by two witnesses, and you will give him liberty to make his defence, I think it no loss of time; for you cannot go through the bill to-night, to see whether sir J. F. be guilty of what is contained in the indictment. And I will give you one reason why he could not be prepared to make his defence in so short a time; for he could not produce his evidence if he had any; and if you give him longer time, I suppose you will think fit that sir J. F. should give an account of what witnesses he shall make use of for his defence; and you will give an order for those witnesses.†

Mr. *Harcourt.* If sir J. F's. business must

* Because many lords were in the gallery.

† According to some accounts, sir Edward closed his speech thus: "I am of the same opinion with the Roman, who, in the case of Catiline, declared, he had rather ten guilty persons should escape, than one innocent should suffer." To which lieutenant-general Mordant is said to have replied as follows: "The worthy member who spoke last seems to have forgot, that the Roman who made that declaration was suspected of being a Conspirator himself."

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be done, I hope we shall do it like rational men, and what we enact, be able to give a reasonable account of it in the preamble of the bill. As to the question proposed, your debates have run several ways: The first is, Whether sir J. F. shall be allowed further time? And in this case, whoever I differ with, it is of that nature that I must desire the liberty of speaking my mind. I must confess, I see no room for enlarging the time; and I shall humbly submit my opinion to other gentlemen, whether he should have further time to prepare his witnesses? And for that, pray consider the nature of the matter before you.—Sir, there is nothing certain that is alledged in the Bill; and should you allow him further time to answer that which is not alledged, I cannot imagine what effect you would have of it. It is said indeed, he stands indicted; but it is no where suggested, that he is guilty of that indictment. This general charge seems a great hardship: There is no one thing that so many have been unjustly taken off by, as the uncertainty of alledging general facts in indictments of high-treason; nor has any thing been complained of in such trials for a greater grievance. What have you done in the bill for regulating of trials in cases of high-treason? In that bill you have reformed that abuse, and taken care, that whatever treason a man might be guilty of, yet he shall never, upon his Indictment, answer to any fact, unless the particular overt-act be expressly laid and affirmed in his Indictment.—That which seems most reasonable in this case to be done, is, not to enlarge the time; but when you think fitting to proceed, proceed upon what is before you. Here are some matters expressly alledged; let them go over the recital, see whether they can prove that; but I cannot imagine to what purpose you should give the prisoner further time to answer nothing; for that which is not charged is so.

Mr. *Finch*. Sir, this is a question, in my opinion, of very great consequence: You are very well told from below, that this is an untrodden path; and I am the more confirmed it is so from this debate. We are told, that sir J. F. or his counsel, could not be ignorant of what they were to prepare themselves for. For this was our meaning, says one gentleman, though I find the path is so untrod, we are very unfortunate in expressing of it, for we have not said it at all in this bill; we have said, sir J. F. was indicted, &c. sir J. F. hath had a copy of this bill sent him, counsel allowed him, and upon a second reading he comes to make his defence. We are told, the proceeding upon this bill is not to be resembled to the proceeding in Westminster-hall; and this is sufficient in a bill, though in an Indictment it would not, without alledging that sir J. F. is guilty. But one would think, that if sir J. F. is guilty, every allegation in the bill, that is, the inducement to the bill, which is for attainting him, should be a good and just ground for the attainder; and then, this gentleman, that hath had a copy of the bill to prepare for his defence, and shew you reasons why the bill should not pass, though our proceedings are not to be resembled to the ordinary proceedings, yet we are to expect from him such a defence as the ordinary proceedings in Westminster-hall would require: But I think this is hardly to be expected; one might have thought, and reasonably enough, that it might have come into his imagination, that if there had been ground to attaint him, by the ordinary proceedings and methods of justice, the parliament would not have taken an extraordinary course to come at it: For I can never think it a good reason to proceed this way, that is, for the saving of time; and if there be extraordinary ground they must guess at that out of the bill: Now that is grounded upon those suggestions that I have cited; and then I should have imagined, that whereas he had been indicted upon the oaths of two witnesses, as the law requires, and one of them was withdrawn; that you had rather intended to have charged him with some contrivance to elude justice, whereby you had reason to exert your extraordinary authority to proceed against him by way of the legislative; and I do not find we have any precedent to warrant this proceeding, though in our debates we have endeavoured to find one: yet I cannot but observe the consequence of this hereafter: For whether we can find a precedent to warrant this proceeding in former ages, or not, we are making a precedent for our posterity. And consider the consequence of this precedent you are making; I think all the bills in parliament are grounded by the most serious ways of deliberation, before you come to judgment: And bills of attainder ought much more, sure, to require the seriousness of your debates; but I cannot but observe the steps now made; I am afraid there was a wrong step at first; I was not here the first day: but I recollect some things from the bill itself; the tenderness of those things upon which this enacting clause does stand. Here was no evidence given to induce the house to bring in this bill of attainder; when this bill is brought in the house, and the preamble that suggests that which is the ground of the enacting part considered in the house; and the house did not think it reasonable to proceed to the reading of it a second time; I remember we were told, Won't you read it a second time, when you may have an opportunity of having those suggestions proved to you? This was the ground why this bill was read a second time. For consider, otherwise a gentleman may, in any other case as well as this, desire leave to bring in a bill for attainting such a one; and tell you, you shall have a good reason given to you for it afterwards; and though the reasons suggested in the bill are not sufficient, you may have reasons out of the bill that are sufficient. What a precedent will this be! Why, sir, length of time gives a sanction to those precedents which the age that makes them think not of; and they become good examples to poste-

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rity, that were even very heinous precedents to the present times. Now if this shall stand, as now in the bill, I would ask, What man in England is secure, when a parliament shall arise that hath a mind to attaint him? Why then, sir, if you do amend the bill, consider the method of your proceedings; you do yourselves, in effect, declare, that for bringing in of the bill, for twice reading of the bill, you had no ground at all; for otherwise you had good grounds recited in the bill, and that must be a sufficient ground to attaint him; and if you declare it no sufficient ground to attaint him, you declare you have brought in a bill, and read it twice, without any ground. Whether you will allow liberty to offer at your bar any suggestions otherwise than in the bill, that I must submit to you; and for giving time, since that is a question of a very extraordinary nature; but have humbly offered my thoughts, whether any thing shall be offered otherwise than is suggested in the preamble of the bill? I hope you will not, for the precedent sake you are now making; which if you do, I am afraid bills of attainder may become now as frequent as Bills of Attainder were in Rd. 2's time; which I hope never shall be.

Lord *Norreys.* Mr. Speaker, I will not pretend to tell you, that you are bound by other rules than rules of justice; but what is justice in Westminster-Hall is so here, and every where. And last year you thought it justice, that no man should be brought to a trial, but he should know what were the particular facts that were alledged against him.

Lord *Cutts.* I think it, in some measure, a misfortune, that a matter of this nature, as is your present debate, hath held you so long; and conceive it a thing to be wished, that every gentleman that speaks upon this occasion, would apply himself more closely to reality, and less to forms; I mean, to forms, considered merely as forms; for it ought to be true reason that is convincing to you: and you ought not to tie yourselves to any forms upon this occasion, but such as are grounded upon reason; and really I have not heard any thing that fell from any gentleman, that shews his doubt of the nature and aggravating circumstances of the crime of the prisoner; but it hath consisted with the great candour and justice of this house, to shew this favour to the prisoner before you. The counsel say, they are unprepared; if they mean they should prepare themselves for more grounds of difference and chicanery, I would not give them farther time; I cannot perceive there is any reality of argument in it; and there is in reasoning, as in religion, sometimes a form without a power.

Sir *Tho. Dyke.* Sir, you have now two or three questions before you; I desire you will confine our debates to one point: I think, whatever opinion gentlemen may be of concerning the proof, I think the point under your consideration, if you will make a right judgment, is the preamble of your bill, which I take to be the foundation of it, and the cause for which you attaint this gentleman: now the preamble does not recite, and say, he is guilty, but only indicted; nor set forth any time; nay, it does not say, he was arraigned. So that these things are very uncertain, and yet you must attaint him for the things recited in your bill. And you know these acts of attainder are extraordinary methods in cases of treason; and if you put it upon this point, that the act attaints him for one thing, and the counsel shall prove another, it makes it more uncertain than it is, and no man can be safe; and therefore I hope you will confine the counsel to proofs of the matter contained in the bill.

Mr. *J. Howe.* Sir, I think, if you please to go on upon the matter suggested in the bill, they are allegations which must be proved before the bill is committed; and that will not hinder sir J. F. from being examined to the treason likewise. Therefore all that is alledged in this bill, I suppose, being thought necessary to be proved, I desire he may be called in, and the counsel may go on to prove what is alledged in the bill, and afterwards sir J. F. may answer them.

Lord *Coningsby.* If the question was, Whether you should grant this gentleman time or no to make his Defence, I should not have troubled you. But the question now seems to be, Whether the Bill does depend upon the bare suggestions of the bill, or upon the guilt of sir J. F.? And therefore if gentlemen do insist upon it, that he should have longer time to defend himself, as to his being innocent or guilty, I shall not oppose it; but if you think fit to put it off, as if the fate of the bill did depend upon the suggestions of it, I cannot agree to that matter; therefore I desire a short time may be given him to answer the matter of his guilt.

Mr. *Harley.* I find all gentlemen that speak of this subject, to say this matter is of a very extraordinary nature, and you have entered into it by very extraordinary methods: but I must only observe, that this being the first bill of this kind that hath been brought into the house, before any proof, gentlemen must be excused if they are cautious what steps they do take; and when the wisdom of the house has thought fit to take quite different methods, as to the preliminaries, it is not to be wondered if they meet with difficulties in their proceedings.—Some gentlemen press for more time to be given to sir J. F. to be prepared; and others urge, that you should declare, whether the counsel should be heard to any thing but what is suggested in the bill. And I think you must give a determination to the last question, though the whole house agreed to give him longer time: for if you give him longer time, it will after come to the same debate, whether they shall be heard to any thing but what is suggested in the bill? If you should think fit to add any thing, then it will be reasonable that he also should be heard to that;

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for in the case of the death of a man, let him deserve never so much, yet he does not deserve to die unjustly by your hands.—It seems a very plain proposition, that when a man is accused, he should not answer to what he is not charged with; and to charge it with Innuendo's and Implications is so uncertain, that as I always have seen it denied in this house, so I hope I shall not see so great an assembly give any countenance to it. They did tell you, they were prepared to speak to the reasonableness of the bill; but this matter not being suggested in the bill, they are not prepared to speak to it.

Sir *Tho. Littleton.* I see now where your debates have led you: I thought the regular subject of our debates had been the point upon which the counsel withdrew; and that was for time. For what? Why, to prepare themselves to answer any evidence that might be given against them; because they perceived you did expect the counsel for the bill should produce their evidence. But they made an objection; say they, we did not understand your order was, that we should come prepared to oppose any testimony *viva voce* to be given against us, but only prepared to speak to the reasonableness of the bill. Now, gentlemen, after five or six hours debates, have been willing to accommodate the matter (that nobody might think that any one pressed a matter unreasonable), that they might have time: but some gentlemen will not be satisfied with granting what the counsel desired, but they desire more. And what is that? Why, that is, to know the opinion of the house, whether you will admit any one thing to be proved that is not suggested in the bill? And I do take this to be within the suggestions of the bill, as fully as can be expressed. For what does the bill say? The bill does say he was indicted of high-treason, and that one of the witnesses is gone: and gentlemen come to the conclusion, and skip over the immediate part of the bill; for the bill does say, that he did incite and consult, &c. And the objection of the counsel was not against the evidence; but they said, they were not prepared at that time to answer it, and there they leave it; and thereupon the house go on upon the debates. What can we expect that they intended? They might think, either we shall gain our point, and the house will give us time; or otherwise, if they go on and hear this evidence, then we say we wanted time. And that will be only evidence *ex parte*, and not carry so much weight with it, though we have nothing to say to it; or they might think it may have this effect, that the house will not go on, and hear any evidence at all: in either of these cases, we have the fairest advantage that we can have, on the second reading of the bill, in defence of our client: all they desired was, that they might have time; and I hope that which satisfied them that are most concerned, may satisfy any gentleman of the house.

Mr. *J. Howe.* The question is not, what they asked, but what is reasonable for us to grant? I was in the beginning against any delay, and I think there is no occasion of delay: all I desire is, sir, that the king's counsel may be desired to prove the suggestions of the bill *ex toto.*

Mr. *Solicitor General.* Most that have spoke of this matter have said, that the matter is very generally laid in this bill, and the counsel could not very well know to what to apply themselves: that it speaks of high-treason in general, and of aiding the king's enemies, which is very general: it recites that indeed; but the indictment is legal, according to the late act of parliament. It is not only said, that he designed the death of the king, but for that purpose he and others met together, and agreed to send Charnock to France, to go to king James, to induce the French king with an armed power to invade England. Now how can any thing be more particularly charged? And the indictment is so charged in your bill. I think therefore the counsel could not be ignorant to what they ought to apply themselves: but by what I perceive, gentlemen are very well contented to give him further time. I remember, when the bill was first brought in, there was a long debate for a second reading; and some gentlemen thought it hard to be tried by so great an assembly, and said, they had rather be tried by a fewer number: but I shall observe, that you have sent the copy of the bill to sir J. F. beforehand, and you sent him notice that he should provide himself. But I remember a much better man than sir J. F. who had the misfortune to be under an accusation of high-treason, had his indictment one hour, and was tried the next; and though he pleaded to have his trial put off till the afternoon, he could not prevail with the court of justice to do it: sir John Fenwick hath had a copy of his bill for two or three days, but he never had any copy till he had pleaded.

Mr. *Waller.* I stand up only for my information; that which I would know is, whether the counsel did not ask you the question, whether they should be bound to answer any thing that is not in the bill? If they asked that, then the gentleman that spake here is answered; and the gentlemen of the house do not insist upon what sir J. F.'s counsel did not insist on. And I do think the king's serjeant, who opened the proceedings, after he had opened what had been before the grand jury, seemed to make it a charge, as if sir J. F. had been condescending to the withdrawing of Goodman. Now that seemed as if they designed to make that a part of the evidence.

Sir *Rd. Temple.* The counsel did not insist upon it, only to answer the suggestions of the Bill: every body knows, they objected to the others going on with the evidence they opened, because it was not in the bill; and the king's counsel could not so much as alledge, that it was in the bill; and they would have gone on to have proved the indictment. There is another thing: it is told you, as if the preamble

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had suggested something of this kind, that there was a meeting. Now the gentleman that spake last but one, has cleared it, that it only recites, he was indicted for these things; and this brings nothing in issue, whether he be guilty or no. Now I think the present question, and only question before you, is upon the suggestions of the bill; for you can bring nothing in issue here, but what is in the bill; and nobody can insist, by the rules of reason or justice, that any man should be heard to any matter of fact but what is in the bill. And therefore I think there is nothing before you, but that you should give direction to hear them to what is suggested in the bill.

Mr. *Methwen.* Sir, I speak to the method of your debates: your debates arise upon an objection that was made by sir J. F.'s counsel, against the counsel for the bill going on with their evidence to prove sir J. F. guilty of high-treason. I must beg leave to differ, as to what the counsel did say, from some of the gentlemen that spake last; the force of their objection was, that they should not now go on, for they were not prepared to answer them; and the reason they gave was, that they had not formal notice; and the other afterwards spake to the shortness of the time: your debates for a long time went pursuant to this, whether you should allow them further time or not? But the length of your debates hath raised a new matter: though I think that doubt, though it was not made by the counsel, may be very properly made by any worthy member that hath that doubt, whether, as the bill is brought in, the king's counsel might at any time speak to that point, though sir J. F. be acquainted with it? And I must always agree, that doubt ought to be resolved, before you come to resolve, whether further time shall be allowed him or not; and therefore I propose it, that this question may be put, whether the house will hear, at the bar of the house, the evidence there is to prove sir J. F. guilty of the high-treason whereof he was indicted?

Col. *Wharton.* You have three or four questions upon your paper; and now, after so long a debate as we have had, I hope gentlemen will not think fit to start new ones; and I hope you will take care that gentlemen shall not rise up three or four times to speak to this matter. You have another rule of the house, that when a question is moved, and seconded, though another question is moved afterwards, yet that must be the first question that is to be put; and I hope you will keep us to these rules.—I wonder at some objections: it is told you, that this is such a proceeding that never any thing of this kind was before; and that you are here going to read a bill of attainder, before you have had any manner of evidence upon which you should ground the bringing in of this bill. Gentlemen must remember, or should have informed themselves; for it is very certain that you had very good grounds to vote this bill to be brought in: I see the gentleman that brought in his own accusation; you had his own discovery read, and Mr. Attorney did inform you what was against him, and how he stood indicted. And another gentleman by me, told you, he was with him, and there was a treaty for his pardon; this was evidence for reasonable men to go upon. And to tell you that these precedents will endanger your liberty! Under favour, this is the ground of all your liberty. It is by this power of proceeding, when you have not that evidence that Westminster-Hall requires, by which you will keep great men in awe.—Now, give me leave to speak to the question that I think you ought to put: it is told you by the counsel for the prisoner, that they are not apprised what the sense of the house was, and upon that account they desired further time: I confess, when you allowed counsel, I was of opinion it was a favour; and now since they have made this objection, though I do not believe you are obliged to allow them further time, yet I had rather err on that than the other side; and therefore I think the fairest thing is to allow them some further time.

Mr. Secretary *Trumbal.* Mr. Speaker, I have attended all this day to your debates, which are now in my opinion of a very extraordinary nature; for a great deal of your time hath been spent upon motion of the counsel for the prisoner at the bar, whether you should allow them further time or no: and now, by what I recollect from the sense of several gentlemen, the house seems willing to allow them further time; even that is opposed at this time of day.—Sir, the king's counsel have opened the matter of fact, upon which they did intend to produce their evidence; and when they had opened the several heads, the whole objection that I heard made by the other side, was, They did not think the king's counsel could have proceeded to examine witnesses upon those facts; and that they were not prepared to bring witnesses on the side of the prisoner, and therefore prayed for further time: truly, whether that be reasonable or no, or whether upon one favour, the house think fit to grant another; I cannot tell what might appear, if it had come to a question; since the life of a man is concerned, we ought to be tender of it, and I shall be as tender as another; therefore I am of opinion, that a reasonable time should be allowed. To do what? Why, upon the evidence the king's counsel should produce, they shall bring their witnesses on the other side to answer them. Whether the king's counsel will produce evidence that is foreign to the bill, that will be in judgment of the house; but it was a good motion made below, which I close withal, that a short time may be allowed them to make their defence, and bring their witnesses.

Mr. *Speaker.* Gentlemen, you have had a long debate; I do not remember any formal question that was proposed at first, till such time as I read to you what I thought was the question upon the debate; when I read you the question for further time, there were several members stood up, and said, that was not the

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question; and took exceptions to it, and proposed that the counsel should be confined to produce evidence only to the matters suggested in the bill; so that now I have two questions upon my paper, which I will read to you, and put which you will. One question is, "That they be confined to make their proof to what is suggested in the bill." The second question is, "That sir J. F. be allowed further time," &c.

Sir *C. Musgrave.* A gentleman said, the second question upon your Paper was but lately started; but I remember, a little after the counsel was withdrawn, it was moved, Whether you would give them further time? And I presently after, in the debate, did take the freedom to ask, Whether it was intended they should answer to any thing but what was contained in the Bill? And, I remember, there was a gentleman of the long robe said, That there was nothing offered by the king's counsel, but what was within the suggestions of the bill. Another gentleman said, When they may have longer time, they did not seem so fond of it; it is indifferent to me, provided he be prepared to answer. But I cannot but observe, that the conclusion of that honourable person was, that at last you must come to determine the question. You are likewise told by an honourable person nearer the bar, why do you dispute this, now you have ordered the king's counsel to produce the evidence; and so you have concluded yourselves? But for myself, I must confess, I did never think the evidence was to be heard otherwise than as to the suggestions of the bill. And if that point be to be determined, why will not you determine it now, rather than to have another debate upon it?

Mr. *Boscawen.* That which is pressed by some gentlemen, is begging of the question. What have we here brought sir J. F. for? Was it not to satisfy ourselves, whether sir J. F. was guilty of high-treason? Now that is supposed, by some gentlemen, not to be within the bill: if it be not within the bill, I desire you would throw out the bill. But the thing is, we must not examine to those things that will make sir J. F. guilty. Sir, this is a very nice thing, and very curiously woven. The great thing, say some gentlemen, we must take care of, is the blood of a man: does any one say he is innocent? No: but we must have some way or another that he must not be brought to his trial. I desire, as English men, you will not only take care of the life of one man, but of the life of the king; of the lives of our wives and children, and all our families. What will they say without doors? You are afraid to meddle with sir J. F.; and therefore you will slide it away upon another point; that his being guilty of high treason is not within the bill. I am not for taking the advantage of time; I desire, as it was moved before, that you will give him time, and try whether he be guilty of this treason or no; or otherwise do nothing in it at all.

Then the Order was made for Candles to be brought in.

Sir *T. Littleton.* Now you have candles brought in, it will be fit for you to return to the question: for my part, I am willing to put both: but I think the last question that you have upon the paper, properly speaking, is to be put first; and that is, That the house will proceed to examine witnesses to the treason in the bill for which he stands indicted.

Mr. *J. Howe.* I think the question ought to be, That his counsel be directed to bring Witnesses to the allegations in this bill.

Sir *T. Littleton.* I propose it to you thus; That the house will proceed to examine Witnesses at the bar, to the treasons mentioned in the bill for which he was indicted.

Mr. *J. Howe.* I think that gentleman might very well have moved the question without that limitation; for that is as much as to say, that witnesses shall be examined to none of the treasons in the bill, except those for which he hath been indicted; and that is a limitation, I hope, shall not be put to the enquiries of this house. I hope you will put it, That they shall bring evidence to the matters alledged in the bill generally: There are several other allegations in the bill which I would have him answer to; as the alienating the affections of the king's subjects from him, which I take to be high treason.

Members. No, no.

Mr. *J. Howe.* Why? If it be not high treason, it hath nothing to do in that place. I believe it is a very high crime, and would induce me very much for the punishing of sir John Fenwick.

Mr. *Norris.* Sir, I do not know how the questions may be carried since candles are come in; but I think it is for the better. I think there are two things have been spoken to; one is this bill: I find those gentlemen that were against the bill on Friday, are more against it now. I was for the bill then, and am now for a second reading of it: I think the bill is very plain, and know not what they would have mentioned in it more, unless they would have had the King's-head Tavern, and what wine they drank there. I think there is all the reason in the world to hear the witnesses to prove him guilty of high treason. As to the point of time, I should be very willing to allow it them, if that question was put; and, I think, you have been very favourable to him already, in allowing him counsel.

Mr. *Smith.* I would only observe, when the bill was to be brought in, the objection was, that you had not witnesses. And now the question is, Whether you can hear witnesses upon facts not particularly assigned in the bill? I believe no man can say, but that in the indictment there are particular facts that ought to be examined: I do own, for my part, if sir John Fenwick was a greater man than he is, it were better he should escape, than you should spend so much time about him. Sir, the indictment is mentioned in the bill; no man thinks that Goodman's going away is reason enough for bringing in such a bill against sir John Fenwick.

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Resolved to give sir John further time; but that Evidence might be given of the Treason of the Indictment.] Mr. *Speaker*. Shall I read you the question? "That sir John Fenwick be allowed further time to produce Witnesses in his Defence, against the Charge of High Treason, and that he name his Witnesses?"

Which question was put, and passed in the affirmative.

Mr. *Speaker*. The other question is, "That the Counsel, who are to produce their Evidence against sir John Fenwick, be allowed to prove sir John Fenwick guilty of High Treason."

Sir *T. Littleton*. I do think one of the reasons why this Bill was brought, was, because possibly, by the absence of this Witness, he could not, strictly speaking, be proved guilty; though all mankind is satisfied in his guilt. And therefore I question whether it will amount to a legal proof: and if you had such a proof as would convict him by the common proceedings of law, I should not have been for a bill of this nature; for it is against the honour and dignity of this house, to do the work that an inferior court can do. But probably, by the absence of this witness, sir J. F. at a trial in the Old Bailey, might escape; though at the same time it is highly probable, the witness that is wanting to convict him, is by his means gone out of the way. Therefore I speak to the wording of the question; you say, 'Shall be allowed to prove.' I would willingly prevent what may be objected when we come upon this debate: If you do use the word 'prove,' they may say, this is not proof; for still Goodman is not here. If you please to say, That we will examine witnesses to the treason, and we will be judges how far it appears to us, whether he be guilty, or not guilty.

Mr. *Speaker*. Will you let me propose it to you thus then? "That the Counsel, in producing their Evidence against sir John Fenwick, be allowed to examine Witnesses touching the Treasons mentioned in the Bill, for which sir John Fenwick is indicted."

Mr. *Montagu*. I do not observe, that in reading of it you say any thing as to the other allegations of the bill: I think you should word it, That the counsel be allowed to produce evidence to the allegations in the bill, and the treasons whereof he stands indicted.

Mr. *Speaker*. Well then, the question is this, "That the Counsel that manage the Evidence against sir John Fenwick, be allowed to produce Witnesses touching the allegations in the Bill, and the Treasons whereof he stands indicted."

Which question being put, it passed in the affirmative.

Mr. *Speaker*. Will you please to appoint a time for it?

Mr. *J. Howe*. That I would move you is this: You were so extremely late before you went upon this information, that you had not time to go through any part of it; therefore I would move you, that you would appoint early in the morning for sir John Fenwick to be here.

And thereupon it was ordered, "That sir John Fenwick should be remanded to Newgate, and brought to the house on Monday ten a-clock."

Mr. *James Montague*. Sir J. F. now insisted he had not notice; I humbly move, that he may be brought in, and acquainted with what you have ordered.

And accordingly sir John Fenwick was brought to the Bar.

Mr. *Speaker*. The house have considered of what sir John Fenwick hath said at the bar, by his counsel, and they are of opinion, that Witnesses ought to be examined there, to prove the allegations of the bill, and to prove him guilty of High-Treason whereof he stands indicted; but in favour to you, because your counsel said you were not prepared, the house is willing to give you time till Monday next to make your defence; and they require you to give in a list of your witnesses; and if you send to me, you may have a Warrant for their appearing at that time; and they require you to be here, so that they may proceed upon the bill exactly at ten a-clock.

And sir John Fenwick being withdrawn, the house resolved, "That the Bill for Attainting sir John Fenwick of High-treason, be read a second time on Monday."

Nov. 16. Mr. *Speaker*. Gentlemen, I would receive your directions in one thing: you have ordered a member to produce a Letter, and the Counsel, in opening the Evidence, have referred to it. That member desires to know the proper time for him to do it; whether, while the counsel are managing the Evidence at the bar, or whether he must stay till they are withdrawn?

Mr. *Sloane*. As to this matter, I do not question but it is to be offered as an evidence; and by the same reason that you give him the favour to examine the Witnesses that are produced against him, for the same reason the Letter ought to be read in his presence, that he may explain it, or deny it: and give me leave to tell my thoughts of another matter: If that worthy member is to offer evidence of what he took from sir J. F.'s mouth, (though a member commonly gives his evidence in his place, after the counsel is withdrawn) I think it is not only fit to produce the Letter in his presence, but that sir J. F. should hear what he says, and deny it if he can.

Mr. *Speaker*. Is that your pleasure, that the Letter be produced before sir J. F., and that the evidence to be given by Mr. Vernon shall be in the presence of sir J. Fenwick?

The question being accordingly put, it passed in the affirmative. Then the Serjeant was ordered to take his mace, and go into Westminster-hall, and summon the members. And being returned, the Order of the Day for proceeding on the business of sir John Fenwick was read. [It being a quarter before eleven a-clock.] Then sir John Fenwick, and the Counsel and Solicitors on both sides, were brought in.

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Mr. *Speaker.* Sir Thomas Powys, when you were here last, you insisted upon it, That the counsel against sir J. F. should be kept to the Proofs relating to the allegations in the Bill only; or else that you might have further time, because the witnesses were not ready. The house have considered that matter, and in favour to sir J. F., that he might have no surprize, have given him to this day: but they do allow the Counsel to give Evidence not only as to the allegations in the bill, but to prove sir J. F. guilty of High-Treason; and therefore, Mr. Serjeant Gould, you are at liberty to go on with your evidence.

Porter's Evidence.] Then Mr. Serjeant Gould opened the Charge and the Evidence again, as before: After which, though objected to by the prisoner's counsel, and stiffly debated in the house, captain Porter was called as a Witness for the king, and gave the same Evidence he had done at the Trials of the other Conspirators, of their meeting at the King's Head in Leadenhall-street, and at Mrs. Mountjoy's, at St. James's; at both which places he affirmed sir John was present, and agreed to send over Charnock to France, to invite over French troops: and that sir John and all the company agreed, to raise two thousand horse here, and join them on their landing.

Then Mr. Serjeant Gould proceeding to ask Porter concerning the lady Fenwick's and Clancy's tampering with him, which sir John's counsel opposed, as contrary to law and the practise of courts; there being besides but one precedent on record, of a wife's being admitted an evidence in her husband's case, viz. lady Audley's: which had been looked upon as illegal ever since.

Debate on admitting Evidence that lady Fenwick had tampered with the Witnesses.] The Prisoner and the Counsel were ordered to withdraw, and the house entered upon the debate, Whether evidence should be admitted of the lady Fenwick's tampering with the Witnesses; and those who were for hearing this evidence observed, That if they were tied up by the forms and methods of inferior courts, it was to no purpose to bring the prisoner before the house; if he could have been convicted in the courts below, there was no occasion for this bill: That in the courts of common law all facts were tried by juries, but here the whole house sat as judges: A common jury might be influenced by illegal or incompetent evidence, which might not be fit, therefore, for them to hear; but in the court of chancery such evidence was admitted every day; and the reason was, that a cause was dispatched sooner by hearing it than not: That here they ought to inform themselves by the best lights they could get: and if it should appear sir John employed his lady to tamper with the Witnesses, it would have some weight with them.

On the other hand it was observed, That if the house was not governed by the rules of inferior courts; they ought to be guided, however, by that which was the ground of their practice, namely, reason and good sense, and the common rules of equity. The house would not punish one person for the act of another. But the question being put, that Porter be examined to the attempt of taking off his testimony, it was resolved in the affirmative.

Accordingly Porter was then examined, and declared, he had been offered 300 guineas, &c. to go into France. One Mr. Roe likewise signified, that he had been offered 100*l.* a year, to discredit Goodman's testimony.

Debate on admitting Goodman's Examination as Evidence.] The Counsel for the Bill then moved for reading Goodman's Examination, taken before Mr. Secretary Vernon, Goodman himself not being in the kingdom; but this was warmly opposed by the counsel for the prisoner, as what was not allowable in a suit of five shillings.—The counsel and the prisoner were then again ordered to withdraw, and a new debate arose;

Mr. *Manley.* I should not have presumed to have given you this trouble of their withdrawing, but that a thing is insisted on by the counsel for the Bill, which I think is of the greatest consequence to all the freemen of England. It is true, the rules of Westminster-Hall are not binding to the legislative power; but I would not have the legislative power to be governed by the private sense of any man whatsoever, but by those rules that are the rules of justice and common equity. God forbid that we should, upon suppositions, suppose ourselves out of all the rights of the law! I never heard any gentleman of the long robe, before the learned serjeant at the bar, assert, that an examination before a justice of the peace could be read against a man for his life. It is known to all that have looked into the A B C of the law, that it was never practised. It is true, in equity, Depositions may be read, because they are taken by the consent of all parties; and it is as well a Deposition of one side, as of the other, and the witnesses may be cross-examined: but that is nothing to this purpose.

Mr. *Sloane.* I believe I may save you a great deal of trouble in this matter; for those gentlemen from the Bar that made objections, spake without book, but I speak by book; [having my Lord Chief-Justice Hales's Pleas of the Crown in his hand.] No less a man than my L. C. Justice Hales (and I think he was past his A B C of the law; I know not how far this gentleman is advanced), in his Pleas of the Crown, in that part where he shews what is evidence to the Petit-Jury, he says; First, By the statute 1 and 2 Philip and Mary, c. 13, and 2 and 3 Philip and Mary, c. 12, the justice hath power to examine the offender, and informer; and so he goes on in several particulars: and then, 5, He says, these Examinations, if the party be dead or absent, may be given in Evidence. I must allow, such an examination not of the same authority, as if the witness was present it would be, because he cannot be cross-examined; but

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still it must be of some weight, and it must be read: but in this case, it is of greater weight than in that which my Lord Chief Justice puts; for he says, it would be Evidence, if the party was dead; or if he was withdrawn without the consent of the party against whom he is a witness, and that comes to the case in chancery, every day practised: that if any person gets my deeds and evidences into his hands, and he hath embezzled the deeds, they shall be presumed to say what I alledged, because it is his fault he does not produce them. So this withdrawing by the instigation of sir J. F. is a strong presumption that what he swears against sir J. F. is true.

Sir *Rd. Temple.* No man can give evidence of any Depositions, nor was it ever admitted to be evidence either upon the party's death or absence; and I would not have that doctrine pass, that we are not tied to the rules of law. My L. C. Justice Vaughan, when he was of this house, told us, we were not bound to the forms of law, but we were tied to the rules of law; and if you are not, how will you judge of this crime? How will you judge it to be Treason in the worst of times? in the trial of my lord Mordaunt, who was tried before the high court of justice, they would not allow of this piece of Evidence, though they had thrown aside juries. We are tied by the rules of law, or we are tied by nothing.

Sir *Tho. Littleton.* The worthy member here tells us, we are tied by the rules of law, or we are tied by nothing. I hope he does not intend to put the pun upon us, that was by a noble lord, 'You are tied by rules or no rules; if you are tied by no rules, what rules are you tied by?' I think you may act by rules, and yet admit of this evidence. I told you before, I should not reckon myself so tied by the rules of law, but that I would hear all evidence that should be offered: and I do not think it is for our honour to stifle any thing that may bring out the truth. A worthy lawyer said, let them produce one evidence that is of the recorder's opinion; and a member hath produced the opinion of my L. C. Justice Hales: and I hope we shall not be debarred from the satisfaction of hearing what they might hear in the courts below. Here are two witnesses that have been examined against him, which the jury did believe that found the bill. If we cannot have these two witnesses, let us have as much as we can. We have heard what one said; we have an opportunity of hearing what the other said. No, says the gentlemen, we do not desire to be informed; but I believe it must come to that at last.

Sir *Rd. Temple.* The gentleman that spake last, insinuated, as if I had dropped something he could not understand. Give me leave to tell you, there was the courts of the presidents of Wales; when they urged rules of law, then they were a court of equity; and when they argued from points of equity, then they were tied up by the rules of law; and so gave judgment neither according to the one nor the other; and so it was taken away by act of parliament.

Mr. *Bosuacen.* I have seen it myself, that a justice of peace has been examined himself as to depositions he hath taken; and I take it to be an ordinary Examination.

Mr. *Harcourt.* Sir, I must say, if you were to pick all the absurdities out of the trials in the last reign, you could not pick out more than has been endeavoured by the king's counsel to be imposed upon you this day: this does in some measure convince me of what was said by another gentleman the other day, that it is much better to be tried by an assembly of 400 gentlemen, than at the Old Bailey. There was a quotation of a learned author; and the gentleman read you what was evidence, and what was not: and the conclusion was, That these Depositions, if the party was dead or absent, is evidence. Why, sir, if these depositions be evidence if the party be absent, then what are we doing of all this day? If that be a certain rule, there is no manner of need of applying to this extraordinary way; but if you please to enter into the consideration of that point (I am neither afraid, nor unwilling to be informed). If gentlemen will take it *de bene esse*, for better for worse, with all my heart; but if you enter into that matter, I will freely tell you my opinion of it.

Sir *Edw. Seymour.* It hath been made a question, how far you are bound to pursue the rules of law? I suppose it is no new thing I am going to say; That bills of attainder, and judgments of attainder, have been reversed for no other reason, but because the parliament have not proceeded according to the rules of law: I will not say, you are bound by the rules of inferior courts, but you must be bound by the rules of parliament, and by the proceedings and practice of parliaments, which is the law of parliament. And then I would know, whether this house did admit of an affidavit for evidence? and the reason is this, because by that you make this, which is the superior court, lame, without the assistance of an inferior court.

Mr. *G. R. Bridges.* The matter before you is, whether sir J. Fenwick be guilty, in your judgments, of this Conspiracy? and if so, I cannot imagine why you should not take all the information that is offered to you; and why not hear all the circumstances of it? If you do not read this affidavit, I do not say but it is a kindness to sir J. F. but what kindness will it be to the country and government?

Mr. *James Montague.* I hope you will not spend much more time about this, because the law is so plain: If there be any thing in the objection, it is this, That if it be evidence, the other courts below may proceed upon it: but that I take to be no objection neither; for though it be evidence, there are not two witnesses; and the courts below require two witnesses though there be other evidence, and one witness besides; so that you can't try him without two witnesses: it would be admitted in the case of

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felony, and there two witnesses are not required expressly by the law: and I can tell you, upon my reputation, I have seen it done several times.—The learned gent. tells you, my L. C. Justice Hales's opinion is so, and that is grounded upon an act of parliament; and I think that is of greater authority than any judge; and therefore I think that objection will vanish. He says, you have no authority to receive affidavits; but sure we must take notice of acts of parliament; and if that requires Depositions to be taken, and to be evidence against criminals, we ought to take notice of it; so that what the law makes to be evidence will be good in this place.

Mr. *Harley.* I look upon this matter under your debates to be of the greatest consequence to the lives of the subjects of England, that possibly can come before you: gentlemen have given you several reasons for reading these Depositions; one, that it was my L. C. J. Hales's opinion; another, that there is an act of parliament for it: now, I think, it would be proper to join issue in these two points: If any act of parliament can be produced for this, then the debate will be at an end; but if there be an act positive in fact against it, then I hope you will not receive it: and if my L. C. J. Hales's book have not one word relating to this, then I hope that will be no argument. He begins his Chapter of Evidence, and says, That the evidence to the jury, in cases of treason, must be two witnesses; and then comes to the cases of felony: But is that any debate before us? and he tells you, that informations might be taken of the person himself, but that was not by the common law, but was allowed of by particular acts of parliament; and then tells you, that his information, and that depositions before the justice, were to be admitted (but he was to be by): But is this any thing to lead you? Have they brought any statute that tells you, there must be two witnesses in this case? If you will take notice of a statute, you must take notice of a statute that is in point. If any man suffers by one witness, I believe all the world must say, he suffers unjustly: I think it is of the greatest consequence to admit of affidavits. Here it is, that the boundaries are established for the lives and liberties of mankind: and this is an observation that is found in history, that those that have broke their bounds down, it hath returned upon them to their prejudice.

Sir *Robert Richard.* I am sure now we are not upon the point of reading, whether it be much or little, but upon the point of hearing, and that I speak to: and, I think the gentleman near the table did not mistake what the bar said; for the counsel on the other side, insisted positively, that neither by the practice, nor by the books, was a deposition to be read as evidence: against that the gentleman near the chair produced that book. As to the matter of Treason, every parliament man can remember, that you have made an act, that there shall be two witnesses in cases of treason. Now, at the same time, it will be taken notice of, that you have taken care in that act, that the proceedings of this house shall not be tied up. The gentleman tells you of a court that wavered between law and equity, and so came to nothing; and I am afraid, if we bring the house of commons down to the courts of Westminster-hall, they will make nothing of us neither. I do not say, that this paper shall be as strong evidence as if Goodman was at the bar; but to say, it shall weigh nothing, I can't agree neither: I agree also, to make a common practice of reading affidavits, will be of ill consequence: and if you take this to be a matter of small consequence, I am not for reading this affidavit. Now I aim not at sir J. Fenwick's blood, but the safety of the king and government: and I would not refuse any evidence in this case, be it never so small. These gentlemen speak against a matter being evidence before it is read; it is offered as evidence; if it be small, or come to nothing, it is the better for the prisoner at the bar.

Mr. *Pelham.* I am indifferent whether I hear that Paper read, or no; but what is said by a learned gent. startles me: Says he, in Westminster-Hall they are bound to the evidence of two witnesses, and there this evidence would not be proper; but here we are upon another foot. I hope we are not here upon another foot; I hope, though here we are not to be tied by the chicanery of the law, we are to be tied by the equity and substantial reasons of it. I desire to know, if any one can be tried for treason upon one witness? And if we are not tied by the rules of law, we may hear any evidence whatsoever; if the king's counsel thinks it may satisfy your fancies, it must be received.

Lord *Cutts.* I conceive, gentlemen, we are out in the way of arguing: I must put you in mind that we are, at the bottom, only arguing against the jurisdiction of this house: and though that matter hath been settled before, we are told very often of the law and rules of Westminster-Hall. In answer to that, I must observe there are several sorts of laws; there is the law of nature, the law of nations, the law of God, and there is the legislative; and it is a self-evident maxim, not to be contradicted, That no superiour is to be circumscribed by an inferiour: And I would ask, if the courts below are not inferiour to the parliament? There is nothing can limit us, but the law of nature, the law of God, and the law of parliaments; and though I cannot tell you very well what is the law of parliaments, yet no gentleman hath said any thing upon that subject, that is against the question before you: The matter was in a course of law; but upon an extraordinary accident, and for extraordinary reasons, it is brought before you. The accident is the withdrawing of a witness; the reason is the securing of the king, the government, your selves, and posterity. I don't think any man that spoke against it is for favouring sir J. Fenwick; for I think this is the worst way: I would appeal to every man, what prejudice it is to you to hear this

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paper read? and it may be a disadvantage to you not to hear it.

Mr. *Howe.* There have been many arguments given for and against the reading of this Paper; and if I did not take it that the reading of this paper could be of no use to the judgment we are about to make, I should be for the reading of it: Either it amounts to a proof of high-treason against sir J. F. or it signifies nothing to you. If you suppose it to weigh any thing, I can never agree to the reading of it; for it is only an hearsay brought to convict a man that is tried for his life. But there is a greater argument which weighs more than the reason hath been urged; and that is, your enemies will have an advantage, and your government is at stake: But I don't take that to be so much an argument of their strength, as of their weakness and neglect; however, when they prove that, I will see how far I can go. It is said, that in the worst of times, they would not convict a man upon one evidence. As to sir J. F. though he should not be a good Englishman, yet his cause may be a good Englishman's. The question is, Whether there be more danger by the withdrawing of a witness, and the escaping of sir J. F. or the withdrawing of the witness, and the convicting of sir J. F.? Here they let Goodman (such a rake) go about and he is gone; and now the fate of the government seems to depend upon it. The precedent on the other side is not so much to be feared; for I suppose future governments will take care not to let a witness go about the streets again: But it may happen that certain men, for asserting the liberties of their country, may be run upon by ill governments, and attempts made upon their lives by false witnesses. But the Bill of Treason provides, that no person shall be prosecuted without two witnesses. Now it may happen, that they shall have no such witnesses as can convince a jury (I believe this man to be as much guilty, in my own thought, as I believe any thing in the world, and yet I will condemn no man upon my primate fancies); but here are two witnesses brought before the grand jury, and nothing is so easy as to get a bill found by them (and that is all that is done by Goodman). Now say they, if this should come before a petit jury, one of these witnesses may not be credited; so they will carry him away, and urge this for a precedent, and so this man may be convicted.

Mr. *Smith.* I think we are come to the debate of the bill, instead of reading the Paper. Was the question, Whether this paper should be allowed as a second witness? Then it would be a great question with me, whether it should be read; but the question, as to Col. Sidney, was not whether the paper should be read, but whether it should supply the place of a second witness? But your debate is extraordinary; your bill takes notice of Goodman being gone away, and now you won't take notice of what he hath left behind him; which I should the rather be satisfied in, because I saw a gentleman soliciting at the bar, that did endeavour to get him away. If Goodman had been brought a prisoner to the bar, I do not know, whether it might not have been reckoned as great a fault, as now his having too much liberty. It hath been cited as a great lawyer's opinion, that it might be given in evidence; but he does not say what weight shall be laid upon it.

Mr. *Pelham.* I am sorry that honourable gent. mistook me so much; I thought I had spoke very plain; I told you, I was not against reading of the paper, till the learned gent. told you, you were not tied up as the courts of Westminster-Hall to two witnesses. As to what I said of Mr. Sidney's Case, it was not against the reading that paper; but I said he did rely upon it as against common justice, to be attainted upon one witness: And that attainder you have thought fit to reverse; and the reason he gives for it was, because it was impossible for a man to make any defence against one single witness.

Mr. *Att. General.* The matter you are now debating upon, is, Whether these Papers should be now read? And gentlemen have let themselves into a debate foreign to the question. A great many are against it upon this argument, that they would not be of opinion to condemn him, unless there were two witnesses: That is not the question, for I think no man is ready to give his opinion to condemn or acquit him, unless there were two witnesses: One gentleman is against the reading of it, and yet believes sir J. F. guilty. I must respite my judgment till I have heard his Defence: I think that the counsel for sir J. F. at the bar, are very much mistaken, when they said, that such a thing as an examination in writing was never read in any court of justice. I think that is a great mistake, and a good authority hath been cited for it; and every one knows the practice is otherwise; it is often allowed, that the examinations before a justice of peace are read. The question is now, Whether the Examination shall be read? If there do not appear another witness to prove him guilty, you will debate that matter then, Whether you will condemn him without two witnesses? You might as well have debated before whether Porter should be examined, because no man will condemn him without two witnesses, and therefore do not examine one. Why, we know not what further witnesses may be produced, if sir J. F. was upon his trial; I think this information might have been admitted for proof, if Goodman was out of the way; but if it was admitted, unless there was another witness produced, I believe the court will tell the jury, here are not two witnesses, and therefore you must acquit him.

Sir *Wm. Coryton.* I must crave leave to differ from that worthy gentleman: I think this is the proper time to determine, whether this Evidence is to be admitted afterwards? Indeed you may determine how far it is available. I thought both in law and justice, before I came into the house, that this ought not to be admit-

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ted for evidence. A gentleman grounded his argument, upon what? My L. C. J. Hales's opinion: but the fate is, that my L. C. J. Hales states the difference in cases of treason, and in cases of felony. Now in felony, they make use of depositions; and the reason is, because it is more for the advantage of the prisoner than his disadvantage; for if the witness differ from his examination before the justice of peace, that turns to the advantage of the prisoner. In the nature of the thing it seems not to be reasonable, for it is easy to turn the tables. And suppose Goodman in the place of sir J. F., and sir J. F. in the place of Goodman; it would be hard, take the informations to be as they are, to admit them for evidence; which, in my opinion, are great reflections upon persons of great honour and worth.

Sir *Ch. Musgrave.* That which I perceive to be your debate, is that upon which the counsel withdrew; you hear it asserted, that there was no instance in a criminal case, where an affidavit was allowed for evidence; And I think the learned counsel at the bar did not much insist upon it; and yet I don't think they were ignorant of the case quoted out of my L. C. J. Hales, but they thought it was not applicable to this business before the house; but only related to felonies, and when depositions were taken in the presence of the party. It is said, we are not tied up to the rules of Westminster-hall; and that parliaments may denominate crimes after they are committed; but I never did hear, that the parliament did take upon them to determine that to be evidence which is not evidence in any court in the world. If you read this Paper to inform yourselves, you admit that to be evidence which is no where else to be admitted. You are told, you are not tied to the forms of inferior courts of law nor equity: If you are not bound by them, you are bound by your own constitutions. You are told, you are used to read affidavits in common causes; but if my memory serves me right, you have always had it opposed in this house; therefore I think, according to the rules of your own house, we shall not read affidavits. Will you make a new rule in this case? Pray consider the consequence of it hereafter. Suppose there came down affidavits upon another person, against a great man for High-Treason, Whether that may not be thought sufficient for to govern your judgments? I hope those that hear me will have a care of the matter. Why, by the parity of reason, may not two affidavits do by the help of the legislative power? I would be glad, to know, Whether in the case of an impeachment, they ever heard of affidavits being read? And this is much in that nature; and therefore, why should you admit of an affidavit now, when the party charged was not present when that affidavit was taken?

Sir *Joseph Williamson.* I am sorry this point costs us so much time; the gentleman that spake last hath brought us to the question, How far you will admit this affidavit, as they call it, to be read? I am of opinion, notwithstanding all that hath been suggested, that it not only may be read, but that it ought to be read. None of the cases that have been instanced, comes up to the case in question; all the cases that are brought are from inferior courts, and the last that is brought is from the example and usage, in less considerable cases, and indeed of a different nature.—This Bill of Attainder is indeed a thing so extraordinary, as hath been said, as it never ought to be used but upon extraordinary occasions; and upon that principle, all that is feared is all answered and avoided. It is to be thought never to come but upon the like occasion; and then God forbid but they should be governed by the like precedent; and if that was proper to speak now, which will be at the bottom of it, when we come to give judgment, and we have time to consider of it, I can't think we shall differ in many voices. Whether it be evidence, and how far it is so, is not now the question; but the question is only, whether it be such an evidence as ought to be read? And all the inconveniencies that have been alledged, depend only upon this, that it should not be admitted in the ordinary proceedings in the courts of justice. Now I say, there was a power lodged in the parliament of England to make a man guilty of Treason, that was not so before; and that even in a reign when they came to determine what Treasons were: They did not think it for the safety of the community of mankind, but that there should be a power lodged in the whole, to declare that to be a crime, that was no crime before it was committed, giving them more than is asked here: For here can be no question, but as to the forms of proceedings. The question is not upon his crime, that is no question; and I take it, that if upon any occasion, it is to be justified in this, and the law hath trusted the parliament with a greater power than now they are about to execute, and there are only objections to it raised from another place, which I think can never conclude in this.

Mr. *Chanc. of the Exchequer.* I am for reading of this Paper, though I do not think it evidence equivalent with *viva voce;* nor do I think, that in like cases it ought to be admitted below; but I think, in your proceedings in parliament, it ought to be read, whether it be an affidavit or not; and I am more of that opinion, from what happened in a case to-day. We had a dispute, whether Porter was to be examined, because the testimony of a man's wife was not good below. But when that came to be examined, it was not the testimony of a man's wife, but his own letter appeared in evidence; and Clancy told Porter he came from Fenwick himself, and therefore the evidence, which at first, for that reason, was urged not to be heard, did amount to more when it came to the proof. I would have this paper read; not because it should supply the place of a witness; no, but because you see he hath

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been indicted by the evidence of Goodman and Porter, and the first is withdrawn; and by whose means you have heard: and I would know, whether Goodman's evidence did amount to accuse him of the same? I do say, in your power of judging, you are not constrained to the rules of Westminster-Hall: and I would say, that for your constitution, the courts of Westminster-Hall are to be governed by the letter of the law; but there is lodged in the legislative a power to judge those crimes that are sheltered behind the law; and I believe, if the several attainders were examined, there was never any attainder that went upon a more just proceeding than this. I take the crime to be a plot with your enemies to bring in a foreign power; and as if that was not sufficient, he hath made a false and scandalous confession, to bring a distrust and jealousy among the king and his people; and he hath dallied and gained so much time, as he hath had opportunity to corrupt one of the witnesses; and therefore it would be hard, if no law should reach him. It is said, Why did not you keep the witness? It would be hard, after a person hath made a confession for the good of the kingdom, that he should be always kept in irons. We are debating of the bill, while we are now only purely to see what is in this paper. I should not have offered to have made use of this as a second witness; but the being an affidavit or not, is not material in this point; the commons proceed upon impeachments without affidavits. It is offered as evidence: that Goodman was a witness against him (you have had proof of); and that he hath been tampered with to withdraw, by the friends of this gentleman. I do think we have gone more fairly and equally to work, than upon any of the records of attainder in your Journals.

Mr. *Brotherton.* The question is, Whether this Paper shall be read? First, it hath not been proved before whom it was taken, nor nothing at all. It hath been objected, that there ought to be two witnesses by the late statute. But I must put you in mind, that it was so by the statute of Edw. 6. and so was the common-law before; and my lord Coke says, there must be two witnesses, and they brought face to face: and so goes to the divine law; and if it should not be so, I will put you in mind of an inconveniency: eleven witnesses were produced before the grand jury; and when they came to give evidence face to face, before the petit jury, the first witness did not know the criminal that he had sworn against. It was in the case of sir Rowland Stanley. They mention a Paper against Algernon Sidney; but that Paper was wrote by himself. It is said, this house is not bound by the rules of other courts; for that reason they ought to give rules for other courts. Nothing is more common than to say, judgment was so in the house of lords, and that settles the law in other courts below.

Sir *Godfrey Copley.* Several gentlemen have spoke to the reading this Paper; some have said, That it should be read as evidence: some others are for reading of this paper; but yet at the same time tell us, it is not to be looked upon as evidence, at least not equivalent to a witness. If the paper be to be read at all, I would know for what reason? If it be to have any sway upon our judgment, if it hath any effect upon my judgment, then in some measure it is equivalent to a witness, when it is in the nature of a witness; and if it should be read to supply the defect of a witness, then I would know, what the consequence of this might be? I do very well understand, that the court of parliament does take no precedent from Westminster-Hall; nor am I afraid of any precedent they should give to Westminster-Hall: but I am afraid of a precedent to future parliaments. Suppose the information of sir J. Fenwick, that hath been delivered in here, should be produced as evidence against any of those honourable persons that are charged in it, though I believe they are very innocent; and some knaves or rascals in future reigns should come in against them; and this paper should be brought to supply another witness what a consequence would that be!

Sir *Henry Hobart.* I must differ with the gentleman that spake last; as to the gentleman that spake before, I did not expect any thing to be quoted out of Lancashire against the reading of it. I will tell you why I think this Paper should be read; you have it suggested in the bill, that Goodman was one of the evidence against sir J. F.; they are to make good the suggestions, and this will shew, that Goodman was an evidence. You are told the danger of the precedent, and there may come ill reigns, and ill parliaments; as to that, I shall only say, in a good reign, and a good parliament, there is no danger; and in an ill reign, and ill parliament, they will make precedents without your giving of them. Mr. St. John tells you in his arguments, It is true inferiour courts, by the statute of Edw. 6. they are bound by two evidences *viva voce*; but you are not prescribed by that here, but you are to judge in your own consciences as the thing appears. I may say as another did upon another occasion, let it be read; 'Valeat 'quantum valere potest.'

Sir *Marmaduke Wyvell.* I desire to take notice of one argument that hath been made use of by one or two honourable persons; which is, that they tell us, that Goodman hath been tampered with by sir J. Fenwick: I remember no such thing that hath been proved; but indeed it was said, that Mr. Dighton offered Mr. Roe 100*l.* a year to invalidate Mr. Goodman's testimony.

Lord *Castleton.* Let me ask you this question, Whether if you read this affidavit, you read it as evidence?

Mr. *Solicitor General.* I desire you would consider what you did, before you ordered capt. Porter to go on with his evidence, and did agree you would consider of it afterwards.

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Some are for reading this paper, and others are indifferent whether it be read or no; and those that are against reading of it, are against reading of it because it is no evidence: but that is no reason why you should not read it; for it is at most but doing a vain thing. I think you have been told already, if it was insisted on below, it must be read; and the other side must demur. The court might say, it is not material, but it must be read before they can demur: so that the question, Whether it is evidence? must come afterwards; and if you go according to the rigour of law, with submission, it must be read.

Mr. *Price.* I did not design to trouble you in this matter: but the doctrine laid down by some men of our gown, surprizes me: it is only an argument, that the court below ought to admit this paper to be read; but there is no precedent shewed, nor convincing reason given, why the courts should admit it. The question is, Whether an information taken before a justice of peace, ought to be read here? If it be to introduce a new law, and make a new crime, then you make a new sort of evidence; but if this be a crime against an act of parliament, or law in being, then you must take the evidence the law doth afford you, in the nature of the crime. The charge here is a charge of treason against a known law: but the great argument is, this is an extraordinary offence; that sir J. Fenwick, or his lady, had a hand in sending Goodman away: it is a mistake; and offering one thing that is not evidence, brings us to another; the Evidence of Clancy's tampering with him: capt. Porter does not say, that sir J. F. employed him; only, that Clancy said so, which is but a hearsay, and that is no evidence, unless Clancy was at the bar, and would say it. In the next place, it is said, That there was a tampering by a solicitor: what is that? Is it not natural for a solicitor to say, Is there any objections to such a witness? Is it not natural for him to lessen his reputation if he can? Now you would have a copy of an information to be evidence. It is said it is tantamount: if so, then the courts of Westminster ought to intermeddle with it, and not this house. A noble lord mentioned to you the law of nature, the law of nations, and the law of God; but he forgot one law, which was most material, and that is martial law; which if he had said, does justify the taking away a man's life upon extraordinary evidence, he had said right.

The Question being then put, "That the Information of Cordell Goodman, taken upon oath, the 24th of April, 1696, should be read:" It was carried in the affirmative; Yeas 218, Noes 145. Then the prisoner and the council were called in again; and the Information of Goodman, made before Mr. Secretary Vernon, was read; wherein he deposed, That there had been a Conspiracy to seize the person of king William, and raise a Rebellion, for two years then last past: in which he charged sir John Fenwick with being a principal, and brought several circumstances to prove it. In support of this, two of the grand-jury declared to the house, That Goodman gave the like Evidence before them, which had induced them to find the bill.

Debate on the Question for reading the Record of Cook's Conviction.] Upon the motion of Col. Granville and sir Rd. Temple, sir John Fenwick, and the counsel and solicitors, withdrew.

Sir *Rd. Temple.* If I did not believe what is now offered, is what was never offered before, and of dangerous consequence to every one here, I would not have troubled you at this time of night. There has nothing been offered that this hath ever been done. They say, It hath not been done in inferior courts: pray, let us see if ever it hath been done in parliament, that what was given in Evidence at another trial, should be given in evidence against another person here, when this person was not by, and had no opportunity to defend himself against it; I am sure it was never done yet.

Sir *Tho. Mompesson.* This gentleman complains this was never done. When the duke of Monmouth was impeached, the Bill was read three times in one day, and that gentleman moved for the Impeachment.

Sir *Rd. Temple.* Here were three witnesses that did declare they saw him in actual rebellion, at the head of an army; but I hope I am not to answer for all the proceedings then.

Col. *Granville.* When I saw them going on to make use of that as evidence, which was never allowed in any court, I thought I ought to move for them to withdraw. I shall not give my consent to have it read, until somebody satisfies me it is good evidence against sir J. F.; I cannot see how you can admit this for evidence. Are we to read all the trials that are upon this plot? Therefore I desire you will bid them produce what is evidence against sir J. F. and not to trifle with you.

Sir *Tho. Littleton.* If you proceed in this manner, I know not when you will have done. They do not tell you, they produce this as evidence against sir John Fenwick; nor do I take this to be the only evidence to prove him guilty. If nothing but exact proof would have satisfied, this bill would not have been brought in: but this is to make as good proof as the nature of the thing will bear. You have heard several things before, in relation to Goodman, that possibly might strictly be no more evidence against sir J. F. than this; as Goodman's being withdrawn. First, they offered to prove that he was gone; that it was suspicious that sir J. F. was privy to his going: why did you admit the evidence of what he said to the grand-jury? What is this, but to give evidence of what he said to the petit-jury, wherein the grand-jury and petit-jury have both believed him?

Mr. *Harley.* I think if you had come to one determination before you had entered upon this matter, you had very much shortened your business; that is, that you would not expect

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such proof as is necessary at law; and it may be, if you would come to it now, it would save you time: for I find by the counsel, that what is sworn against another man, at another time, would not be evidence at law against the prisoner; and I believe if he should except to a jury-man, because he was upon Cook's trial, it would not be allowed as a good exception, and he would be told, he was no way concerned in another's trial.

Mr. *Howe.* It is a strange sort of evidence that is offered here, and it is a strange way of bringing it in. The house made nothing lately of hear-say, and yet now hear-say must be taken for evidence. I have heard that the grand-jury take an oath not to discover what was sworn before them; this, since the grand-jury have subjected themselves to (yet you have brought them here as witnesses to give an account of what was sworn before them, which I am afraid is a breach of their oath), it shall make me give less credit to what they say. We are here to attaint a man, but we must not talk of proof; that is a strange thing! I am sure, if you do not find it with proof, it would be against proof. Shall I be plain with you? I question, if this house had heard what Goodman swore at that trial, and what was alledged against it, whether this house would have been of that jury's mind: for I have heard that two or three did swear, he was not at the place at the time he swore he was, as plain as a negative could be sworn.

Mr. *Hercourt.* If you please to let the king's counsel go on upon this, you will save a great deal of time, and prevent any exception to any evidence afterwards: for it is not in the power of man to offer any thing more absurd. I do not believe that ever any man heard of such a thing offered, That a record should be given in evidence against a man, that is no manner of party to the record; I am sure never any such thing was attempted before. As for the other things, you had something offered that made it seem doubtful how far you should give credit to them. Upon those matters, the counsel at the bar for the king told you, that there was some pretence that it was law, and practised below, and a book was produced to justify it: but in this case, if there be book, practice, precedent, or any thing to justify it, I will sit down. The answer made it ten times worse: the gentleman said, he would not have the record read, but upon that record to prove what was sworn at the trial: why, does that concern any person in the world but Cook?

Lord *Cutts.* If the worthy gentleman that spoke last had made out all his propositions with clearness, equal to the assurance with which he asserted them, they would have more weight: but I will say, that which he hath asserted does not appear to me so. I take this to be the same thing, in some measure, debated over again. It hath been told you, that this house are to give their judgment in a matter of great importance; and therefore I think it is fit that all the whole matter should be laid before them; when that is done, they only are the judges of what weight it is.

Mr. *Sloane.* I go along with those gentlemen, that this is no sort of evidence against sir J. F.: but our question is about a witness that is withdrawn, and to know what he said, and how he was believed when he was here. How he is gone, we have seen already; and therefore though I think the verdict against Cook, nor nothing of that can be given in evidence against sir J. F.; yet if he hath withdrawn the witness, and the credit of him is at stake, as you have heard evidence of what he said upon oath before the trial came on, by the same reason you may hear what he said at the trial.

Mr. *Pelham.* I think it would shorten our debates, if we were truly satisfied about what we are a-doing, that we are trying sir J. F. as we are told at the bar; he called it a trial, and it is a trial. I must confess I was in hopes I should never sit in the house of commons to try any body; I did not think it the business of us; if I had, I would not have come hither: but since we are come into it, is any thing more natural, than to examine whether this evidence proper, or such evidence as any court would allow of?

Sir *Wm. Williams.* I suppose there is no gentleman of our profession that hath seen any record, will say, that this hath been offered in any court of law: I believe, if he was upon his trial upon the indictment, nobody will say it would be read against him. Let us consider how many judgments, that have been given hastily in the late reigns, have been reversed. What is the reason that is given for it? It is for receiving that for evidence, which was not evidence in the law: your Bill of Right takes notice of it.

Mr. *Solicitor General.* I did not think this matter would have held you a quarter of an hour; but if gentlemen will debate upon the same matter that hath been over-ruled twice before, all that is to be proved by this record is, that one Peter Cook was attainted for high-treason: if the counsel on the other side would have owned Peter Cook to have been attainted, you had not been troubled to have the record brought to the table. But as to what they say, that sir J. F. was no party to the record, and therefore it can be no evidence against him, I suppose it would be evidence for him. Suppose Goodman had sworn he never had been at the King's-Head-Tavern, would not the prisoner have produced a witness to prove what he had sworn? Then I would put you in mind of a case, because there is a nicety in this matter without any reason; it was in the trial of alderman Cornish; he was indicted and tried, and the great fact was in the house of one Shepherd; there was a witness against him, one Rumsey, who swore, &c. Says Mr. Cornish, he was a witness at my lord Russel's Trial, and he did not name me to be one; and it went so far, that when Shepherd said, I was in the room; he stood up and said, No, it was read before I came in. Mr. Cornish would have produced a

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witness to have proved what Rumsey said: says the court, we cannot admit of that; for it does not appear to us, that my lord Russel was ever tried for high-treason; and there, upon that slip, was that gentleman destroyed. I pray it may be read; I have given no opinion of what force it is, but I think it depends upon the same reason; nay, you have more reason to do it, than any thing you have read to-day.

Mr. *Price.* It is very much pressed that you should read that, which, when read, they say, is not evidence, but only to introduce another matter. If it be not evidence, upon what account shall they read it? But if it introduce other evidence, this is an ingredient and part of that evidence. Now suppose the record should be produced, and they should bring witness to say what Goodman swore at that trial: would that be evidence? No sure, for nobody ever pretends that this hath been admitted either at law, or in parliament. By what law? By what rule? By what measure of reason are we to proceed in this house? If you would permit to be produced a record of conviction against a third person, and this to be evidence against one that is not present, I think you may as well admit to be produced a record of the conviction of any other concerned in the Assassination. But I stood up principally upon the observation made at the bar, and he put you that which he takes to be a sinister case; for, says he, suppose sir J. F. had brought this record, and made use of it to take off Goodman's testimony, should it not be evidence? Yes, no doubt of it; and there is the distinction. It is one thing, where you are to give in a record to convict and attaint a person, and another thing, where it is to prove a man perjured, and to invalidate his testimony; for when evidence is brought against a prisoner, he hath no way to lessen his evidence but what is collateral; if it be upon a trial when another is concerned, if the witness gave a contrary evidence, or the party was acquitted, then the record may be made use of against the witness: but it differs very much, where you bring evidence to take off the credit of a witness, and where you bring it to convict or attaint a person. The case of Cornish that turns upon the same reason, and it was only to be used to take off the testimony of Rumsey; but if this record of the conviction of Cook be brought to any purpose now, it is to satisfy your consciences, that Goodman gave a good testimony at that trial; and I wonder the serjeants should offer it, who are sworn to offer nothing in violation of the law.

Dr. *Oxendon.* If I did not think this question had been determined before, I should not trouble you in this debate; for did not we receive what Goodman deposed upon oath before a justice of peace? Was it read because it was taken in writing, or because it was his evidence? Now they offer you an evidence of his, that was not put into writing, but they will prove by witness; what is the difference? If it had been taken down in writing, it must have been admitted as the same was before.

Sir *Marmaduke Wyvell.* That worthy gentleman desired to know the difference, &c. That deposition was against sir J. F. but this evidence, that they offer now, was given against Peter Cook.

Mr. *Attorney General.* You are now upon a debate, Whether you shall read the conviction of Peter Cook: I do agree with those gentlemen that have spoke of this matter, that the conviction of Cook, nor any evidence upon his conviction, can be evidence against sir J. F. I do not pretend that this is; nor do not believe that this is offered upon any such consideration; but it is one of the allegations of the bill, that several of these gentlemen were present at this consult, of which sir J. F. is accused; therefore, I suppose, the counsel for the bill did offer this record to make good that allegation, and so think it may be properly offered: unless it be admitted: I do not see how it can be made good further; I do not think it proper to examine to what Goodman swore at Cook's Trial.

Sir *Wm. Williamson.* I speak only to shew my concurrence with the attorney-general; Mr. Attorney hath stated it right, no doubt, as to the conviction of this person; as Mr. Attorney offers it, it may be proper enough.

Members. Call them in, call them in.

Sir *Christ. Musgrave.* I hear gentlemen say, call them in: do you intend when you call them in to read this record? I think the learned gentleman hath stated it, that it ought not to be read as evidence. Now the counsel for sir J. F. said, they hoped you would not suffer it to be read as evidence against the prisoner: I never heard the counsel say, that Cook was not attainted, nor ever heard that any man did doubt it; then if it be no controversy between the counsel, to what end is it brought hither? Do you think that the steps that are urged to be taken in this case, will not be a precedent for posterity? I take it that there is a great deal of difference between the paper you have read and this record; and therefore, if you call in the counsel, I hope you will not gratify them in reading of it.

Mr. *Ed. Harley.* Before you call the counsel in, I humbly propose it to you to consider to what purpose this record should be read; if as evidence, you overthrow all the course of proof that is settled by the common-law, and statute-law; for it hath been in all trials opposed, to give in evidence that which is improper, because it should not influence the jury. I would not have it said, that under the reign of king William, any thing was done contrary to the law and constitution of the nation. There hath been an instance given of the trial of Mr. Cornish, though that case does not come up to it: But we know what was done in those reigns hath been justly reflected upon; and I hope you will not make a precedent here, to encourage judges to do what is against law.

Mr. *Speaker.* Gentlemen, This is your question, That the Record of the conviction of Peter Cooke shall be read.

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Which Question being put, the house divided; Ayes 181; Noes 110. So it passed in the affirmative.

Mr. *Speaker.* Gentlemen, You have had another question that hath been the subject of your debate, That the council for the bill be admitted to give evidence as to what Goodman swore against Peter Cook.

Mr. *Robert Harley.* The learned gentleman did tell you, That what Goodman said at that trial, ought not to be given in evidence; and therefore, I think, gentlemen won't insist upon that, that is carrying it too far; and, I think, he opened it, that it was only to prove that Cook was attainted, and to make use of it no farther.

Mr. *Speaker.* Is it then your pleasure, that sir John Fenwick and his counsel be called in?

Which Question being put, it passed in the affirmative, and accordingly they were called in.

Mr. *Speaker.* Sir Thomas Powys, the house hath determined to have this Record read, not as evidence against sir John Fenwick, but to prove the allegations in the bill, and that Cook was attainted.—Accordingly that Record was read by the clerk.

Debate on calling for Cook's Jury as Evidence.] The next thing the Counsel for the Bill proposed, was, to examine some of the Jurymen who served at Cook's Trial, and some other witnesses, to prove what Goodman had sworn at that Trial; which the Counsel for the Prisoner opposing, they were all ordered to withdraw.

Mr. *Manley.* I thank God I have that regard for the laws of England, and to every Englishman's life, that when I see any thing attempted against it, I must give my testimony against it: I did not believe they would have insisted on it, for there was a gentleman that sate near to you, who in the close of his debate, I thought, had satisfied every body, that this was a thing that ought not to be read; if they should do it, it would be a thing of dreadful consequence; if you should admit of every thing these gentlemen that come in for the bill offer, I know not where it will end. How will it appear that upon Goodman's evidence the jury found Cook guilty? For they might find Cook guilty, and yet give no credit to Goodman; for he was contradicted materially, and there might be other evidence upon which they might find him guilty, and yet lay aside the evidence given by Goodman: but whether one way or the other, we can't tell. They tell us, We are not to be guided by the rules of Westminster-Hall: but we are to be governed by the rules of justice; and we are not at this time to seek a way to the king's favour, by voting against a criminal for high-treason.

Mr. *Sloane.* There is no manner of doubt of it, That that gentleman is in the right, who tells you, if this indictment and conviction of Peter Cook stood singly, as to sir J. F. it is no evidence; and if they will produce Goodman now, it shall be no evidence against them; but take the case as it is, here is a witness, who hath given me satisfaction, that it is one of sir J. F.'s friends or agents (which is the same thing as if done by himself) by whose means this witness is withdrawn: Now the question is, What could this witness say, when he was here? What did he say? It is not conclusive, but it is material for you to hear what he did say when he was upon his oath.

Sir *Christ. Musgrave.* The gentleman of the long robe that spake last, was pleased to tell you, it is very reasonable that you should hear those persons, as to what Goodman swore at Cook's trial; I confess, I think this is harder than all the rest, because what you have hitherto admitted was in writing; one was an examination before a justice of peace, the other a record; but for any man to say, he can exactly repeat what any man swore at the trial, to me is wonderful: Why, in his evidence, the least mistake of a word alters the nature of the thing, and therefore this would be a bold undertaking for any man: for if he wavers in the least circumstance, it is not true that he swore so: Then this gentleman was no ways concerned in that trial; and to what purpose is it read, if not to the prejudice of sir J. F.? I do not know but by the same rule, you may hear evidence of what any man hath sworn upon all the trials this three quarters of a year.

Mr. *Sloane.* I have been called upon to know in what cases testimony hath been given, that witnesses have sworn so and so at a former trial. It is every day's practice between party and party, that where a witness doth die, between the same parties (I will state the case fairly) it is given in evidence, that such a witness, at such a trial, did swear so and so; sometimes they take it in short-hand, and then they can tell the words of it; otherwise they repeat it upon their memories; but I will not strain it: But I put it with a further reason upon it; for we do not desire to hear it as conclusive evidence upon the prisoner, but only in this sense; here is a witness supposed to be carryed away by the prisoner's means; and therefore, is it not necessary to hear what he said before he was deluded and carried away? Not that after it is heard, it is any conclusive evidence; but it is reasonable we would come at the truth, 'omnibus viis et modis, quibus 'mediis sciri poterit.'

Sir *Thomas Littleton.* A gentleman says, To what purpose should it be read, if it be not to the prejudice of sir J. F.? On the other side, we may say, it is for his benefit; that is only supposing one way or another: I will hear any body to his benefit, and any body to his prejudice. Says a worthy gentleman, it is not done in criminal cases: Why, in this case you have heard the grand-jury, what he swore before them already; and what objection is there more against hearing what he swore in another case, than against hearing what he swore upon the indictment? The main inducement for you to hear it is, because he is gone away, and cannot be heard *viva voce*, and with suspicion that it was by contrivance of the party.

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Mr. *Grey.* I would speak but one word as to what the gentleman that spake last but one said; and that is, as to the courts below, that one man is allowed very often to give in evidence what another swore; it hath been so, and it is at the peril of any person that swears, that he swear truth; for he may be prosecuted, if he does not swear truth; but I would ask him, what remedy there is here, if he do not say the truth? We have no remedy against him, if he takes away this man's life by what he says here.

Mr. *Smith.* Truly, sir, if I must give my opinion, I do think it is very reasonable that bills of attainder should be only upon extraordinary occasions; I think that, take it at best, if there was not a place where the witnesses are to be sworn, and more particularly examined, I know not whether I should give my consent for the passing of this bill through your house; for the witnesses against the prisoner are not sworn, nor the witnesses brought against them; so that we can only give our opinion upon the probability of the matter; for what that gentleman says weighs with me, that it is a difficult thing for any man to charge himself with what was sworn at a former trial; for the mistake of a word may alter the sense very much. We are told by a worthy gentleman, that there was two or three witnesses that did give such evidence against the testimony of Goodman, that it is a wonder almost how Cook could be found guilty: It is our misfortune that Goodman is not here; it would have been worth our while to have heard what Goodman could have said in his own defence; but since there are such witnesses like to be offered against Goodman's testimony, is it not reasonable that we should hear what Goodman said for himself?

Mr. *Howe.* Sir, I always thought it very reasonable, that you should hear any evidence that might tend to your information; but I think it is plain, that nothing can tend to your information that is alledged by any person that is not to be believed; that is to say, is not to be believed from the nature of the evidence, though from the most credible person in the world. I know not whether these witnesses are to be brought or no; but I have heard that Cook, after he was condemned to die, without any apprehension of his being saved, did, upon the sacrament, declare, that Goodman was not upon the place at that time he swore himself to be there. I have heard since, that the same divine that gave him the sacrament, Dr. Wake, when he had confessed it, after he had made such a declaration, had such an abhorrence of it, that he would go to him no more; but I cannot think we can have information from these persons, that I suppose did not think of giving evidence in this trial, and therefore did not take notice so particularly of what he said; and if so, it is losing your time to hear it.

Mr. *Speaker.* Gentlemen, the question is this: That the counsel against sir J. F. be allowed to examine witnesses, as to what Goodman swore at the trial of Peter Cook.

Sir *Godfrey Copley.* I must confess, it would weigh with me, if it had been made appear, that sir J. F. had taken off any evidence, and I should be ready to apply it as well as I could; but I must needs take notice of what was said in this debate, that we had done as much as this comes to already: This makes me a little more apprehensive, and to take care what we do now, since what this house does hath so quick an operation. We are citing precedents of this very day already, and make one thing a hand to draw on another; and so they may easily be made use of in after parliaments.

Sir *Henry-Dutton Colt.* I believe no one gentleman doubts, that Cook was convicted upon the evidence of Goodman; if they do, I would know the reason of it; for upon the last act, there are to be two evidences to the same treason: there were but two positive witnesses against him for treason, and they were Porter and Goodman: I think, therefore, he was convicted upon the evidence of Goodman; what then needs any person to remember any particulars that passed at the trial, if they remember in the whole, that he was convicted by the evidence of Porter and Goodman?

Mr. *Speaker.* As many as are of opinion, that the counsel against sir J. Fenwick be allowed to examine witnesses, as to what Goodman swore at the trial of Cook, say, Aye.—Ayes 180; Noes 102.

Afterwards the question of Adjournment was put, and it passed in the negative; and several gentlemen that were against the Bill, to about 40, went away together in a body; some of them having declared, that their health would not give them leave to stay there longer.

And thereupon the prisoner and the counsel being called in again, two or three of the jurymen at Cook's Trial were examined, as to what Goodman said at that trial; and answered, That Goodman deposed, he was introduced into the company of the conspirators at the King's-head, by Mr. Porter; and there sir J. F. and the rest agreed to send Charnock to France, to procure forces from thence; and another person, who was present at Cook's trial, testified the same: and it being demanded of the witness, If any exception was taken then to Goodman's credit? he answered, It was objected that Goodman had been guilty of several crimes; to which it was said, he had his pardon, and therefore was then a good witness.

Sir John's Letter to his Lady offered as Evidence; but rejected.] Then the Counsel for the Bill desired to read the Letter above-mentioned to be written from sir J. F. to his lady from Romney, after he was apprehended: (see p. 998). But sir John's counsel insisted, that this Case came short even of colonel Sidney's; this piece of Evidence was therefore void. And it being now very late, sir John's counsel were ordered to make their observations on the evidence for the prisoner the next morning: but were told, If they had any witnesses to exa-

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mine, they must produce them that evening; for they could not hear witnesses afterwards. To which sir John's counsel answering, They should call no witnesses; but when they came to speak, they should give the house satisfaction why they did not think it necessary to produce any; the prisoner and his counsel withdrew, and the house soon after broke up.

The Gentlemen charged by sir John, move, that he may prove the Charge.] Nov. 17. Sir John Fenwick and the Counsel on both sides were called in again; and the Speaker directing the Counsel for sir John to make their observations on the Evidence that had been given; they did so; and were replied to by the counsel for the bill. After which, both parties being withdrawn,

Admiral *Russel.* I think this may be a proper time to ask questions: if so, I think myself enough concerned to trouble you with one or two. I think, in the Paper [meaning Fenwick's Informations] that hath been read, I am mentioned twice. These are the questions I desire to have asked, What proof he hath of this? Whether ever he saw ——? And, what proof he has that I sent captain Lloyd over, and that I gave him a list of the ships? And that I said, we could not fit out 30 ships in May? And whether or no, since this Revolution, he hath had any conversation with me?

Col. *Crauford.* What that honourable person says, calls me up; my name is mentioned in sir J. F.'s Paper; I desire you would ask him, Why he mentioned me in his paper, as he hath done? And that you would require him to make proof of what he says in relation to me.

Col. *Godfrey.* I desire some questions may be asked him in relation to a noble lord, my lord Marlborough: if he be guilty, I would have it known, and I would as willingly have it known if he be innocent, as I believe it will so appear. I would have him asked, Whether, since the beginning of this war, or from the time of this king's landing, sir J. F. did ever speak to him, in public or private? Or ever did write to him, or receive any message by word of mouth, or letter, from my lord Marlborough? He says, That some service he had promised king James, inclined him to promise him his pardon: I would know what that service was? And in relation to his sending Lloyd into France, Whether he can, by any body else, make that appear?

Col. *Crawford.* That gentleman hath put me in mind of one short question: Whether ever he conversed or spake with me in his life?

Mr. *Bridges.* Whether sir J. F. hath any body but himself to support the hearsay he hath given an account of? And I desire a question may be asked him on behalf of the duke of Shrewsbury; what proof he has that the duke of Shrewsbury came into the office of secretary of state again, by the operation and consent of king James?

Mr. *Vernon.* I desire a question may be asked previous to that, because it is so in time; how he knows that noble lord was in treaty with king James, before he went out of the secretary's office, when he first came there?

Col. *Granvil.* I desire he may be asked, What proof he can give, that my lord Bath was to betray Plymouth into the hands of king James, or the king of France; and whatever else my father is accused of in that Paper?

Mr. *Harley.* I humbly propose it to you for the method of your proceedings, since you take this method, Whether it will save you time for you to look upon that Paper, and ask him as to the several parts of it, what proof he can make of it.

Mr. *Howe.* I do not oppose sir J. Fenwick's being examined to this Paper; but it might have been more to your credit, if you had examined him before your Vote: [a Vote made a little before, by which that Paper was condemned]. But here are a great many gentlemen rise, to ask a man to that which he does not pretend to any proof of. The best way for saving your time is, I conceive, to have the several parts of the Paper that does concern these gentlemen, read to him: and to ask him upon what grounds he gave the king that information. This will lead him into all that he knows of the matter.

Mr. *Boscawen.* I am not against the question that is proposed last; but you may ask him that at last. But there is a noble lord that is reflected on in that Paper, and that is my lord Godolphin; *I desire you would please to ask the same questions as to him.*

Lord *Coningsby.* I did intend to take care of my lord Godolphin; there is a hard reflection upon that noble person; but under favour, you must, I think, let him know you have such a Paper; and then ask him in general, What proof he has to the particulars of that Paper? And then you will do injustice to nobody.

Mr. *Norris.* There have been several questions moved by several worthy members; and, I think, the questions ought to be asked: but, I think, there is one previous question to all these; and that is, when you tell him that you have such a Paper, I think the first question should be, Whether ever he delivered those Papers to the king?

Sir *R. Delaval.* I find I am named in that Paper that sir J. F. hath given; I desire that part that relates to me may be read to him; and that he may give a reason why he hath said so of me and Mr. Killigrew.

Lord *Walden.* There is another mentioned, and that is commissary Crawford; I desire he may be asked, What proof he hath, that he gave Mr. —— a list of the army?

Chancellor of the Exchequer. I can't blame gentlemen for asking questions that concern them or their friends: some are for reading of it to him, I am against that: but yet I would have you to enquire into this paper. And being you intended to do it, it might have been as well enquired into before Mr. Dighton came last to him. I think you may put yourself into

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an easy method, and avoid all leading questions; and ask him upon every name in that paper, as you come to it, What he knows of that gentleman? And ask him no other question.

Mr. *Smith.* I was standing up to the same purpose: I would not have you to put words into his mouth, nor let him know by any question what answer he is to make.

Mr. *Speaker.* Gentlemen, I am willing to do you any service I can: but here are long informations, and I never read them, nor know the contents of them, but as they were read at the table.

Mr. *Attorney General.* I think the method lately proposed will save you a great deal of time, and is proper for the discovery of the truth: that you will name the persons to him in order as they are in the paper, and ask him in general, What he knows of those persons? But when you call him in, I am not for asking him to the particular things he hath said against them in that paper; because that paper, though it is under his own hand, is not his own; and if he knew it then, he knows it still.

Col. *Mordaunt,* I won't pretend to propose any thing, only for the shortning of your time: If after you have informed him there is such a paper, that you should ask him, Whether he will own it? And then, What sort of proof he will bring to prove it? You will find he will either tell you, he will advise with counsel, or whether he will give any answer at all.

Lord *Cutts.* I have only one question to be asked sir J. F.; It is not a question that relates to any person named in that paper. I think there is no one person that he hath named, but is eminently known or believed to be in the interest of this government; and none but what are in some post of trust, and employment in it. Then, I think it highly necessary to know, How it comes to pass that he hath had so much conversation with persons of that character, and none with those people that he hath been seen daily to converse with? And if he hath, Why he hath not discovered them, as he hath done the rest?

Mr. *Speaker.* Is it your pleasure I inform him we have the informations?

Mr. *Palmer.* If I am not mistaken, when you first called sir J. F. before you, he referred himself to what he had informed the king; and referred himself to that paper, as often as you asked him any questions. And if you ask him general questions, I presume he will give you the same answer: Therefore, I think, it may be proper to ask him, Whether this is the paper that he delivered in, or not? Or otherwise, I doubt he will tell you, He knows nothing but what is in that paper. Now, if he refers to that paper, you may ask him, if he knows it again, if it be shewed to him.

Mr. *Sloane.* What this gentleman has said, has partly interrupted what I was going to offer; but as to what he says, That when he was here before, he referred to his confession delivered in to the king; we did not tell him we knew of that: But he put it further, That he was not bound to accuse himself, and that what he said might be given in evidence against him; and so far he was in the right: For if he knew of any body that was concerned in a conspiracy against the government, that was misprision of treason at least in him. I don't question but it was a very mischievous contrivance; but if he should confess it, without some assurance of being indemnified, he proves himself to be guilty of it.

Mr. *Vice-Chamberlain.* You are now upon the method of your proceedings. There is great suspicion whether this paper be sir J. F.'s own or no. If you will tell sir J. F. that in the paper in your hand he hath laid things to the charge of persons of trust, whom this house hath a good opinion of; and that this house desires to know, What ground he hath for it? if he does not think fit to give you an account of it, there is an end of your enquiry.

Mr. *James Montague.* The house seems to agree, that they will have sir J. F. sent for in: I suppose you will not have the counsel, nor solicitor, by; and when he withdraws, I desire he may be kept private from his counsel and solicitor.

Lord *Cutts.* By sir J. F.'s behaviour, when he first appeared at the bar, and by what he said then, I believe sir J. F. did tell you to this sense, That he had assurance from a noble person, that what he then said, should not rise against him in judgment; and I think he was told, If he dealt ingenuously, he might expect favour, or to that effect. I do, for the saving of time, mention it to you, to consider how far the house may give him security, that what he here says shall not rise up in judgment against him; and that if he dealt ingenuously he might expect some favour from this house.

Mr. *Harley.* You are upon the nicest thing in its nature, that possibly can come before you. I think before you call him in, it ought to be understood that the questions be very plain.

Mr. *Manley.* I think you have been well moved from the other side, That we should not read this paper to sir J. F.: And I am of that opinion from this consideration, besides what hath been mentioned: We are here in a judicial capacity as well as a legislative; and this paper I take to be an examination made upon sir J. F.; and as my memory serves me, some things he speaks of as matters of fact, which he does positively assert; which being contained in the same paper with other matters of hearsay, if you should read that paper to him, and ask him a question, Whether that be his paper? That, I doubt will be contrary to the rules of law: For it will be asking, Whether this information against himself be true or false? And I think it does not become the dignity and honour of this great assembly, to ask him any questions that may make him accuse himself.

Mr. *Vernon.* I would observe to you, that he has not considered these two papers: The first of these papers I think the bill refers to, and that is under sir J. F.'s hand; and there he does charge nothing at all upon himself, but

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it is an accusation upon the persons named. In the first paper he does say, There was a select number to manage the affairs of king James, and —— was sent over, but they are not named; and afterwards he went about to explain it in the second; and the bill referring only to the first, I suppose you will confine yourselves only to the first paper.

Mr. *Chanc. of the Exch.* I would think of some way to reconcile these things you are going upon: For though gentlemen are in the right to press for these questions, yet I do not think it the business before you. Therefore I think you should acquaint sir J. F. that this paper hath been presented to you, which this house hath thought false and scandalous: But before he goes away, this house has a mind to hear what he would say to it; and let him say what he would upon that, then you would not lead him by any question. The first person that is named I have a great respect for, and am as willing he should be vindicated as any. The first question that you ask him is, What he knows of my lord Godolphin? But that you should literally ask him questions, as the paper states it, I don't think it proper for this assembly to ask; for there are facts beyond the Act of Indemnity, many of them. After you have done with the paper, I have some questions to ask him: I take these matters to be false; but I shall have some questions to ask him which I believe will prove true.

Mr. *Bridges.* Before you call in sir J. F. I would offer one thing to your consideration: I think that Paper you are upon is written with sir J. F.'s own hand. Why may it not be fit for you to ask sir J. F. if that be his hand?

Members. No, no.

Mr. *Speaker.* Is it your pleasure that sir John Fenwick be called in?—Which Question being put, it passed in the affirmative. And he was brought in without his counsel.

Mr. *Speaker.* Sir John Fenwick, this house does understand, that you have given informations against several persons of great quality, that have been in the government; and they do expect from you, that you should deal clearly and candidly with them, and give them an account of what you know in relation to those persons. I am commanded in the first place to ask you, What you know of my lord Godolphin, in relation to this matter?

Sir John refuses to answer on that Head.] Sir *J. Fenwick.* I am under a double prosecution for my life: I know not but what I say may turn to my own prejudice: I hope the house will not think it an obstinacy in me; and since this house have done me the favour to hear me by my counsel, I hope they will please to consider what they have said.

Mr. *Speaker.* No doubt the house will consider what you have said by your counsel, that is, in reference to your own defence; but they do expect from you, as I told you before, that you do deal candidly with them in what you know of this matter.

Sir *J. Fenwick.* Sir, I am under prosecution for my life: and, I hope, the house will please to consider, that I know not what inconveniency may come upon me by it; and I hope, the house will excuse me, for I do it not out of obstinacy, but for my own preservation.

Mr. *Speaker.* You would do well to advise yourself well in this matter; it is of great concernment; the favour of this house, if you deserve it, may be of great kindness to you. I have only in command to tell you, what the house expect, and you are to consider how to answer it.

Sir *J. Fenwick.* I hope the house will not put me upon any thing that will hurt myself: I should be sorry to incur the displeasure of this house, but I hope they will consider my condition; and I am sure the justice and honour of the house is such, that they will not press any man to do any thing that may hurt himself.

Mr. *Speaker.* Sir, if you please to withdraw.

Accordingly sir J. Fenwick withdrew.

Lord Cutts. I would humbly propose something to you to save your time, and remove this inconveniency. The house have heard what sir J. F. says; I cannot but say, that in matters of blood we cannot be too tender; but that I would propose to you, if this house approve of it, is this: suppose you wave the whole matter to the last moment of passing your bill, and then I shall have something more to say to you in the matter.

Mr. *Clerk.* Now I think it may be very proper for you to proceed in your legislative capacity. I am glad the house have taken so much pains in the examination of the matter; and it is no small satisfaction to me, that the gentleman was brought to the bar upon this enquiry; very probable, another time may induce him more to comply than he does at present; though, if I may speak my opinion, there is little hope of the gentleman's answering your expectation here: and I think the first thing you are to do now, is to read your bill.

Mr. *Pultney.* One of the allegations of the bill is, that his trial was put off upon several repeated pretences of making a confession. The counsel for the prisoner took notice that that allegation was not proved: the counsel for the bill told you, they must refer to a worthy member of this house, who could prove it; the worthy member is Mr. Vernon. I suppose, before you enter into a debate, as there will be after the second reading of the bill, gentlemen will desire to have all the evidence. And I find your order is, that Mr. Vernon do give in his evidence while sir J. F. is at the bar; and therefore I humbly move, That sir J. Fenwick may be called in while Mr. Vernon gives his Evidence.

Mr. *Speaker.* I suppose if Mr. Vernon gives evidence, you will call in the counsel.

Members. Yes, yes.

Mr. *Speaker.* Pray, then, hear the motion that hath been made. Shall I put the question, that sir J. Fenwick and the counsel be called in, while Mr. Vernon does give his evidence?—

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Which Question passed in the affirmative; and sir J. Fenwick and the counsel on both sides were brought in.

Mr. Vernon relates the Endeavours made by sir John to put off his Trial.] Mr. *Speaker.* Gentlemen, you that are of counsel of both sides; the house, before they proceed any further, was willing to hear the testimony of a worthy member of this house, which hath not yet been given; and they are willing that sir J. Fenwick and you should be present while it is given. Mr. Vernon, will you please to acquaint the house, &c.

Mr. *Vernon.* If I understand the counsel for the Bill aright, that which they did appeal to me for, was about the protracting of sir J. F.'s trial, and upon what pretence it was. The account, sir, that I can give of it, is this: that sir J. F.'s trial was put off, will appear best from the frequent adjournments of the sessions at the Old-Bailey for six or seven weeks together. For when sir J. F. was committed to the Tower (which was, as I take it) on the 19th of June, there was, I believe, a sessions to be held soon after; for, as I remember it, the first application that lady Mary Fenwick made for putting off sir J. F.'s trial was upon the 30th of June; and the petition was, that he might have some friends come to him to advise him how to make his application to the king: on the 30th of June or about that time, my lady Mary Fenwick did first propose, that somebody should be sent over from sir J. F. to the king upon some matters of importance, but did not declare what they were; but only that she was told there was such matters, and she had a proper person to send, and would acquaint the lords justices with the man, if he might have leave to go to: but afterwards my lady Mary Fenwick said she could not provide a person so soon; and, I think the 2d of July, she came and offered to go herself; and said, if it was not as much for the king's service, as sir J. F.'s benefit, she would not undertake the journey. She had leave to go, and would have capitulated, that the trial should be put off till she returned; but the lords said, when she should return, would depend upon her pleasure; but they would write to the king at the same time, and gave notice of her intention, and that the trial should not go on till they had an answer of their own letter.—There was a passage in the transport-ship going to Holland, and my lady Mary Fenwick desired to speak with sir John in private, in order to her journey; the same night she came back again, and said, she had considered of it, and said, she would not go; and several reasons she gave. Upon the 7th of July there was a noble lord that was in the commission for the administration of the government, said, he had had an application made to him from another noble peer, my lord Carlisle, who desired that he would go to sir J. F. for that he had been very earnest to speak with him. That noble lord did acquaint the lords justices with it, who acquiesced in what he thought fit to do in the matter.—He went the same day to sir J. F. and the next day the lords justices met again; he then told he had been with sir J. F. and that sir J. F. had told him, he had sent to the king; for he did not allow it should be otherwise communicated. My lords then thought it was fit to stay for the king's answer. This was the 7th of July; and by what accident I know not, but no manner of account came till the 7th of August, that the letter was received; but the 7th of Aug. the letter was acknowledged to be received; and the answer that then came to it was, that the king had not received any great satisfaction by the message; (I know not what it was) but that sir J. F. should be tried; but withal, that noble lord acquainted my lords justices, that the king was pleased to write to him, that what sir J. F. had to say, should be sent him in writing. It happened at that time, that the judges were upon their circuit; and there being the king's directions to receive what sir J. F. had to say in writing, that noble lord did undertake to go again to sir J. F.; and, I suppose, he did receive something from sir J. F. which he sent to the king: when the answer to that came it was in September, and that noble lord was at the Bath; and so it required a little time.—Why then it appeared, that the king's direction was, that what sir J. F. had sent to the king, he should prove it; and he should likewise shew his ingenuity in confessing what he knew of any other designs against the government: and the 10th Sept. as I take it, I was directed to go to sir J. F. who was then in the Tower, and to acquaint him with this message from my lords justices. Sir J. F.'s answer was, That he had no more to say, or some words to that effect; and then he must prepare for his defence as well as he could; but if he could speak with that noble lord, he should be glad to do it; but he was not come from the Bath, and direction was then given for his trial. Again, in the mean time, that noble lord did come, and he did go to sir J. F. and he brought an account from him, That sir J. F. would prove to the king, and make out what he had said; and was ready to give the lords justices satisfaction: and upon that, I was sent to sir J. F.; I carried the message in writing, which you may see when you please; and it was to ask him, Whether he was willing to make out by proof, what he had already said to the king; and whether he was ready, in compliance with the king's directions, to give the lords an account of what he knew of any design against the government? I carried sir J. F. this message, and he returned an answer in writing, That he was ready to make out to the king what he said, and would acquaint the lords with all the matter that he had not observed to the king; (his arraignment was then to have come on the 17th) but he did dictate a paper which was brought to the lords, which they thought fit to be sent to the king; and the trial was put off as to that time; and before an answer from the king came, it was (I believe) the beginning of October: and this is the account I have to give you.

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Mr. *Speaker.* Gentlemen, you consider that this Evidence is given, with relation to that part of the bill, that sets forth, how sir J. F. had delayed his trial by offers of confession. You have heard what the evidence is; if you have any thing to observe as to that point, you may speak before you withdraw.

Sir *Tho. Powys.* As to this matter, I can only say, that in itself at least according to our rules of law, it is not, in any degree, treason: what you will construe it to be, I cannot tell. We think it is only what is very usual when persons are under an accusation; they will put off their trial as long as they can: perhaps their witnesses may be out of the way, or something else may be the reason of it, and it does not carry any crime in itself; at least, not of the nature that this bill is of.

Sir *Barth. Shower.* We do think, with submission, that, considering the nature of the bill, and the particular case of sir J. F. will (in some measure) answer this fact: I take this singly in itself, as it hath been observed, not to consist with honour; but it does not import a crime, for any man to use little insinuations to put off his trial. But, suppose it was unlawful, or that which they call prevaricating: I hope it is far from making him guilty of high-treason, which is the greatest crime this bill designs to pass sentence for; and, I hope, you will consider, if it be an offence, it is so at common law; and the same evidence will prevail to bring sir J. F. to condign punishment by the common methods. And if it be no offence, I hope you will not by law make it an offence, so as to inflict the greatest punishment for this artifice.

Mr. *Speaker.* Mr. Serjeant Gould, have you any thing to say?

Mr. Serj. *Gould.* No, Mr. Speaker.

Mr. *Speaker.* Then withdraw.—And being withdrawn,

Mr. *Sloane.* I propose it to you, Whether, if the paper be Evidence, it should not be read in the presence of the prisoner?

Members. No, no.

Then the question was put for Candles; which passed in the affirmative, and they were brought in.—Ordered, That the counsel be discharged any further attendance at this time.

Mr. *Methwen.* There can be no debate previous to the reading of your bill. I desire the order of the day may be read.

Accordingly the Order of the day for reading of the Bill a second time, was read by the clerk. Then the Bill was read a second time by the clerk.

Debate on committing the Bill.] And being afterwards opened by Mr. Speaker, and he having expected for some time, and no member rising up to speak:

Mr. *Speaker.* Shall I put you the question of commitment?

Sir *Tho. Dyke.* Sir, I hope you will not put the question of commitment until some exception is made to the bill; I am sure it is as liable to exceptions as any bill that hath been brought in a great while: it is a tender subject to speak of, the pretence of the bill being for the preservation of the king and government: and if I thought it was really so, I should be heartily for it; for I think there is no comparison between the value of the king's life, and that of private persons: but that hath been often said, but not proved; therefore, I think, I may tell you my reasons why I am against the bill. That the parliament hath a power to make such a law, is agreed; but I think it ought not to be used but upon extraordinary occasions, when great persons are concerned, that cannot be otherwise brought to justice, and when crimes do not fall under the denomination of the law, which is not the present case. This case is, that a gentleman is charged with treason; and it is proved but by one witness; though the counsel did say, that a consult to levy war was not treason. Now either it will not be the crime that is alledged, or it is not proved. Here you are judges, prosecutors, witnesses and jury: I would know in what country it is so? Besides, the witnesses are produced here, and not sworn; and upon the whole, there is but one witness. Sir, I am against the bill, and against it, as being of dangerous consequence.

Mr. *Pultney.* This matter before you is of such a nature, that as a debate is rising upon it, I hope all gentlemen will hear one another with the greatest attention that may be. The worthy member admits you have a power to pass the bill, and I do not find that contested by any body; though (with submission) the latter part of what he said, contradicted what he admitted at first; but since that is so much agreed, I shall say but little to it, and that is this: that without such a power as this, any government would be imperfect, and would want a sufficient power for its own preservation, upon extraordinary occasions. You have been told, this hath been an untrodden path; but, I believe, gentlemen are pretty well satisfied it hath not been so untrodden, and many precedents of that kind have been quoted; and the counsel against the bill have admitted, that there have been frequent precedents. An objection hath been made to some of them, that they were made in ill reigns; but I take it to be no objection, that the precedent was made at one time or another, since it is agreed, that we have such a power, and that that power hath been executed.—The chief matter before you is, Whether in the present case, there is sufficient ground for you to exert that power? And upon that, give me leave to observe the nature of the crime of this gentleman, and the evidence that hath been brought to prove him guilty of that crime. His crime is high-treason, the highest crime in the law: it is for conspiring the destruction of the king, and the overthrowing of the government. The overt-act which the bill tells you (and which is mentioned in the indictment) is his inviting in a French force, in order to accomplish his design. If this crime would admit of aggravation, some

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other parts of the bill would aggravate it; but I think it will admit of none. The counsel at the bar made a doubt, whether or no, that which was laid in the indictment did amount to a sufficient overt-act of high-treason; and his argument he drew from a book that hath been put out by a learned gentleman of the house; but the gentleman could easily have answered himself; and, I presume, did not speak his own opinion. For that gentleman did write a book, called, 'His majesty and government vindicated:' by which he endeavoured to overthrow the arguments in the other book of the other gentleman.—As to the Proof before you, you have had the testimony of Mr. Porter, whose evidence hath been justified by the several convictions grounded upon it; and by the confession of several gentlemen, that have owned the fact at the very time when they have been going out of the world: and there hath been no evidence brought by the prisoner at the bar, that should invalidate the testimony of this gentleman. And so (with submission) you have one undoubted evidence, that does charge the prisoner with the fact mentioned in the bill: you have other proof that does not come up within the letter of the law; but you have strong circumstantial proof, that every gentleman will apply to his conscience in the judgment he shall give in this matter. One of the allegations in the bill is, that he did, by repeated promises of making a confession, from time to time, gain a delay of his trial. It is a great presumption, that that was in order to a design that he had of seducing Mr. Goodman, that was one of the witnesses; for it was observed to you, what practice there was in the case, with the other evidence, Mr. Porter.—Sir, gentlemen have objected the consequences of making a precedent: you were very well told by a worthy gentleman that spoke the other day, near the place where I am, that in the case of a good parliament, it is not to be imagined that they will make use of this precedent, but upon as good a ground as you have now; and an ill parliament, they will have the same reason, for they will copy after the same precedents that have been made before, and will not stick at doing of it.—Besides, let gentlemen consider the way of arguing: I have a power to do such a thing, and yet if I have such a ground as is sufficient, I shall not make use of it: to say you have a power, but shall not exert it, is as good as to say, you have no power at all.—There were some precedents cited by a learned gentleman that spoke against the bill, and he particularly quoted that of my lord Strafford; and the act of parliament that repeals that attainder, was in part read to you: but, sir, the reasons given in that bill of repeal of my lord Strafford's attainder, are, that it was obtained in a tumultuous manner, which influenced the parliament in doing of it; and that it passed in the house of lords, when most of the lords were absent: and at last, the king, when he gave his consent, by commission, to the passing of the bill, it was with great reluctancy. It is certain, all these are reasons that are given; but there is not one that questions the parliament's power of doing it; though upon the trial, gentlemen may remember there was a doubt in the law, whether the evidence was sufficient.—Sir, It hath been urged to you, of what ill consequence it would be, and how much injustice, to make a law to punish a man *ex post facto*; but that the parliament may declare that to be a crime, which was not so before, nobody doubts; and without that, the clause in the 25th of Edw. 3, signifies nothing; and I do not imagine it is a greater injustice to supply in point of form, as to matter of evidence, when the fact committed by the prisoner was against a known law, at the time when it was committed: and the rather, if I think that defect of form in the courts below, was occasioned by the prisoner. It is a matter of blood, it is true; but I do not aim at this gentleman's life in it; but any man must believe he must be concerned in great matters, to bring to pass this great design; therefore, all I propose by it is, to get his confession, which in all probability we might have had, if the other witness had remained here.—Sir, upon the whole matter, I do think we have power to do this: I do think here is good evidence (I speak with respect to myself) to think him guilty of this crime. I do think, if this bill does miscarry, there is the greatest blow that can be given to your constitution. And give me leave to use this expression; I think, if this bill miscarry, it not only turns this plot upon you, but makes it impossible ever to come to the depth of any other; and for these reasons, I am for committing of this bill.

Mr. *Newport*. Sir, I am unwilling to trouble you at any time, but more especially at this time, when I am afraid I am like to speak against the opinion of the majority of the house; for I see gentlemen are in great haste for the commitment of this bill.—Sir, in this matter I look upon myself, as every gentleman here, to be a judge; and therefore, I will in this case, as in all others, go according to the dictates of my own conscience: I must be saved by my own faith, and never will pin my faith upon another man's sleeve: Perhaps it may be a weakness in my nature, that I am very tender in the matter of blood; but I hope gentlemen will not be in so much haste to commit the bill; for *De morte hominis, nulla est cunctatio longa*. A gentleman below said, the other day, it was possible in his own private opinion, he might believe the prisoner guilty; and some notice was taken of those words: But, sir, I would put a case for argument's sake, and would have it taken no otherwise; and I would go a little farther than that honourable gentleman; and suppose that I knew, of my own private knowledge, that sir J. F. was guilty; yet, sir, with humble submission, as a judge, I do not think it ought to weigh one way or another with me; and will give you my reason for it; for as a judge, I am to go according to my judicial knowledge, and not according to my private

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knowledge. It is a maxim, 'Nil refert quid 'notat judex, si non nota forma judicii;' and it puts me in mind of a case in Hen. 4's reign: Two men travelled together, and one killed the other, and the judge saw it: Afterwards that judge went the same circuit, and an innocent man came to be tried before him for it; and yet the judge, in that case, was obliged to go according to his judicial knowledge; all the judge could do (the man being found guilty) in that case, says the book, was, to respite the judgment and execution, and to make application to the king for the poor man's pardon.—The evidence that is produced, is first a living witness; the next evidence was the confession of Goodman, taken before a justice of peace; for that, truly I did not think yesterday it was a legal evidence: I am sure in a court of law, it would not be admitted; but the house was pleased to read it, and gentlemen, when they pressed it, told us, read it, *valeat quantum valere potest.* Then if you strike this paper out of the case, with humble submission, there is nothing left but the testimony of captain Porter; and so then, in their case, you have but one witness. It would seem a little strange, that the commons of England, that lately were so very careful of the lives of the subject, and were so desirous of passing a bill, that did provide, that where there were two species of treason in one indictment, and one witness to one species, and another witness to another species, that that should not be good evidence to convict a person of high-treason; that they should be attainting a man for treason upon one single evidence! Surely they will say, we have mightily changed our opinions since last sessions. I speak not this upon the account of sir J. F.; I know him not, though *I* am not a stranger to his character, and I hear that is none of the best: I speak it as it may be my case, or any man's whatsoever. God knows, we live in an unsettled time, and how soon a precedent of this nature may turn upon any man whatsoever!—Amongst the great irregularities committed in the late reign, I thought that of Mr. Algernoon Sidney one of the greatest strains I saw in Westminster-Hall; for there was my lord Howard a witness against him, and the next evidence was a Book that he had wrote against sir Robert Filmore, which, I think, is printed since this Revolution, and I have it in my study; and I hope, I shall not be hanged for it. That was construed to be calculated for a treason that hath not been committed above two months, and was the second witness to convict him; but that attainder was reversed, and it was fit it should be so; for I thought it a hard strain to convict him upon that evidence.—I am very sorry this Bill is brought into this house; nor can I imagine, after all that hath been said by the learned gentleman, why this man was not tried when there were two positive witnesses against him. All the reason this gentleman has told you, is, that he promised to make an ingenuous confession: But any man might have easily seen through this confession, that it was only an artifice to abuse the king's best friends; nay, the rather, when this gentleman's brother had served this very government, but two or three years ago, the same trick. We know my lord Preston was attainted of high-treason, and then he must do something for his pardon; and he made an ingenuous confession, as he called it, whereby he accused most of the great men; and when he had a pardon, though his confession was under his own hand, and delivered to the king, he denied every word of it; and what he told, was to save his own life. My neighbour cited you several precedents; I have looked into a great many of them, they are mentioned in Rushworth's Collections, in the great argument that Mr. St. John made for passing the bill against my lord Strafford; and as to those precedents, all I can say is, I could not have come up to them, if I had lived in those times. The last precedent was of a cook that put poison into the pot of the bishop of Rochester: And what did they do? They did enact, that he should be boiled alive. I have a great honour for the present bishop; but if it had happened in his family, I should hardly have consented to the like. 'Judicandum est legibus, non ex-'emplis.' I should be glad this gentleman might suffer his due punishment; but I am not, by any means, satisfied in the passing of this bill: And as to what gentlemen say is the reason why this man was not tried, because it was thought he would have made an ingenuous confession: Sir, if they have made any mistake, I will not help it by the passing this bill of attainder. I ask your pardon for troubling you so long: I am a judge in this matter, and ought to deliver my opinion. I hope no man doubts but I am as zealous for this government as any man whatsoever; but let what will come of it, I can't give my vote for passing of this bill.

Mr. *Solicitor General.* This is a bill for attaining sir John Fenwick of high-treason: It is the greatest crime we know in the law; and, I think, the greatest crime known in a government. It is much greater than murder, or any thing else; because it subverts the government, and the law whereby these crimes are punished; and persons should be deterred from committing these crimes.—It hath been made a question by the gentlemen at the bar (I think two of them), Whether this matter that sir J. F. is indicted and accused of, is high-treason or not? I must confess I heard something of it without doors; and that they would make it out, that if he was guilty of the matter charged, it was not high-treason. I thought it somewhat a bold matter, but did not think they would have undertaken it in this place, though they might have pretended some flaw in the indictment: But it seems they have the authority of a good lawyer in it; and they have quoted one learned author, as they please to call him, though I take that for a great compliment: I believe they may mean myself; and they have done me some honour; for they say, my lord chief justice Hales was of the same opinion; and then

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said something of Dyer. Now he hath read something at large out of that author he spake of, and challenges any one to shew any opinion, that ever a conspiracy to levy war was high-treason within the statute of 25 Edw. 3. Now, I would give a challenge on the other side, that he would shew me any opinion before that time, or since, that a design to depose the king is not high-treason within that statute. The author that he speaks of says that expressly in the matter of my lord Russel, and tells you particularly; and in 'The Government Vindicated,' which was only an answer as to the prosecution of my lord Russel, there are several cases cited, that a design to depose the king was high-treason, and agreed to by that very person; and it always was agreed to be high-treason. Then take the state of this case, and that of my lord Russel: The great matter was, that he sent some persons to view the guards (it was said, in order to seize the king); this was evidence against my lord Russel, for a conspiracy to levy war: But it was said, that this was not so much a conspiracy to levy war against the king, as against the guards. But this is of a quite different nature: Captain Porter hath given you an account of it (and I think Goodman's examination is to the same purpose,) that they met in Leadenhall-Street, and consulted how to bring king James back again; and the only method they could think of, was to send Charnock over to king James, that he might prevail with the French king to send them 10,000 men, and they would meet him here with 2,000 horse: And for what purpose was this? It was to bring back king James again. I would be glad to hear if those gentlemen that were at the bar, or any body else, could say this was any thing else but a design to depose king William: And they can't shew me one lawyer's opinion, but that designing to depose the king, was ever called imagining the death of the king, within the statute of 25 E. 3. The first resolution of this matter was pretty early; I think it was Hen. 4's time, and that was pretending Richard 2 was alive, and that he was the lawful king: So that the matter is treason, as it is charged in the indictment.—Then, as to the precedent, that it is an ill precedent: I must confess, I am not afraid of a precedent of this kind: I should be glad if these gentlemen should turn back, and see how many attainders have been by act of parliament. But I dare say, there have been more men destroyed by the irregular judgment of a commission of Oyer and Terminer, than by all the acts of parliament, whether legal or illegal.—As to what they say of my lord Coke, who mentions the attainder of my lord Cromwell and sir J. Mortimer; the gentleman pretends to repeat my lord Coke's words at large; but he did not deal so well as he ought to do by you; for he should have told you all my lord Coke tells you; that Cromwell was never brought to answer, never permitted to say any thing for himself, neither in parliament, nor where he was. Now, pray, sir, is this the present case? Hath not sir John Fenwick been heard by you? I would be glad that gentleman, or any body, could shew me, that any person hath so fair an hearing before commissioners of Oyer and Terminer, as sir John Fenwick hath had before you. As to sir John Mortimer, it is much of the same nature: My lord Coke says, there was a jealousy of sir John Mortimer's pretending to the crown; and because they suspected him, they did give out, that he said, that the earl of March was heir to the crown; and if he did not, he would pretend to it himself, &c. Now, says my lord Coke, this was but a bare pretence, and nothing else: He speaks as if he did not ever think him guilty of those words, and says, having indicted him, they not being able to proceed that way, they made it good by act of parliament, and he was condemned: So that what my lord Coke complains of, is, that these persons so condemned were never heard; and if this be the truth of the matter, these precedents (with submission) have no affinity with yours. But I believe this may be said in this case, sir John Fenwick hath been heard, and that more than ever any one in parliament was before, in a capital matter.—As to the case of my lord Strafford, he had counsel assigned him to stand by and hear, but not to prompt him. If there arose any point of law, he was to propose the matter to the lords, and the counsel was to assist him by their direction. And in the case here before you, you have allowed sir John Fenwick counsel, not only to assist him in point of law, but to assist him in point of fact too. They have made answer for him; so that I say, he hath been tried fairer than any man ever was in parliament, be it upon bill or upon impeachment, that is, as to the matter of precedent. Then it hath been said, this would not be good before the judges. I must confess it; but the evidence captain Porter gave of his own knowledge of sir John Fenwick, every body will agree is what the law will allow. But he is but a single witness, and you ought not to proceed upon the evidence of a single witness. Let us see how the law stands upon the whole matter: You have made an act of parliament last sessions, and I own the law was before that, that there should be two witnesses in case of treason; but all that goes no farther than to trials in the King's-Bench, and commissioners of Oyer and Terminer, and gaol-delivery. And if you look upon those acts, it is very plain; for they refer mostly unto the judges, what they shall do in such and such cases: But then you will see what is the reason of making those rules; I think there was good reason that you should not put that power in persons below, that you have in yourselves: You give them rules to proceed by, and they are to keep up strictly to them; you may act by other rules. It is one thing when I command my servant to do such a thing, and another thing when I act myself. And there is a difference when a judicature is by few, and when it is by many; the law puts a greater confidence in many than in

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a few. The ordinary trial is by twelve jurors; but if it be a matter of an high nature, as an attaint, then it shall be by twenty-four; and you do prefer a greater number in every thing to a few. It is said, though a judge do think in his conscience a person guilty, yet he ought not to make use of that private knowledge; and a case was quoted out of Hen. 4. But I think that judge might have behaved himself something better than he did; and sure I am, now he would be blamed. I do not say, that a judge upon his private knowledge ought to judge; he ought not; but if a judge upon the bench knows any thing, whereby the prisoner might be acquitted or convicted (not generally known) then I do say, he ought to be called from the place where he sate, and go to the bar and give evidence of his knowledge; and so the judge in Hen. 4's time ought to have done, and not to have suffered the prisoner to have been convicted, and then get a pardon for him; for a pardon will not always do the business: for there may be a forfeiture that the king's pardon doth not restore. But though we act as judges here, do we act only as judges? I thought we were as well triers of the fact as judges. There is this difference between the judicature of Westminster-Hall and this court: They are to judge upon a fact found by a jury; but we act both the part of a jury in trying, and also of judges in judging what the fact amounts to: So that if a juryman may make use of his private knowledge to acquit a prisoner, as (I think) nobody doubts but it is his duty to do, then every gentleman in this house may make use of his private knowledge to acquit the prisoner, or convict him.—I confess, for my part, I am satisfied, that sir John Fenwick is guilty of this crime for which he stands accused. I do think this crime is high-treason; I think there is no danger of a precedent in this case, if you convict him, being convinced upon the evidence you have heard, that he is guilty: I do own, if any gentleman think he is not guilty of meeting at the King's-Head in Leadenhall-Street, or at Mrs. Mountjoy's, for the purpose given in evidence, he ought to be against the bill; but I think, every man that is of that opinion ought to be for the bill. I am one of those that think he is guilty, and therefore am for committing the bill.

Mr. *Harcourt*. I can readily agree with the gentleman that spoke last, that high-treason is the highest crime in the law; and further, that the matter of the indictment that is mentioned in the recital of the act is undoubtedly high-treason; and I am sure he will agree with me in one thing also, that the greater the crime is that any person is accused of, the clearer the proof ought to be by which he is convicted.—Some gentlemen have begun their discourse in relation to the power; but sure it is no argument, because I can do a thing, therefore I will do it; because we have power to repeal Magna Charta, and all other subsequent laws, which have been made in favour of life and liberty, and property, by the same consequence we ought to do it: A better reason must be given me, before I consent to this bill.—Then for the precedents, it is said, there have been many, and many have been mentioned; and if I thought it worth while, I would mention many more you have not heard of. As for precedents in general, they are so far imitable as they are grounded upon true reason, and agreeable to justice; but I don't remember any one precedent of this nature, for a person in custody, forthcoming, to be tried, yet to be attainted without a trial at law, but what has been universally branded; and they all seem to be reproaches even to those ill reigns in which they were usually made; and rather to be marked out as rocks for us to avoid, than patterns for our imitation.—Before I particularly mention the facts how they stand before you, I would beg leave to observe upon the general method of your proceedings, and tell you what staggers me in it.—I have often heard this called a trial, and that we are the judges; the gentleman that spoke last gave us another title, and told us we were the jury also. I know no trial for treason but what is confirmed by Magna Charta, *per judicium parium*, by a jury, which is every Englishman's birth-right, and is always esteemed one of our darling privileges; or *per legem terræ*, which includes impeachments in parliament; but if it be a trial, it is a pretty strange one, where the person that stands upon his trial hath a chance to be hanged, but none to be saved. I can't tell under what character to consider ourselves, whether we are judges or jurymen: I never heard of a judge, I am sure not of a juryman, before, but he was always upon his oath: I never heard yet of a judge, but had power to examine witnesses upon oath, to come to a clear sight and knowledge of the fact: I never heard of a judge, but if a prisoner came before him, the prisoner was always told, he stood upon his deliverance, and had not only a power to condemn the guilty, but to save the innocent. Have we this power? Suppose upon such a trial as this (if it must be called so) it may so happen, that a person that comes before us, should be the innocentest man in the world; what judgment is it that we can give, for so much as such a person hath made his innocency fully appear? Is the Speaker, by his warrant, to send him back again to Newgate? You can't dispose of him otherwise, though you were satisfied of his innocency: But in such a case the party must undergo a double trial, which is contrary to all the rules I have heard of. If I am a judge in the case, I beg leave to tell you, for my own justification only, what a definition I have met with of a judge's discretion: My lord chief-justice Coke says, it is 'discernere per legem;' and by that discretion I beg leave to consider this case: If judges make the law their rule, they can never err; but if the uncertain, arbitrary dictates of their own fancies, which my lord Coke calls the crooked cord of discretion, be the rules they go by, endless errors must be the effect of such judgments.—As to this particular case, I did expect

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from the gentleman that spoke last, that he would have told you there was a plain evidence, why you should go on to the passing of this bill; but instead of that, I am surprized to hear a thing mentioned, that in parliamentary proceedings a man may be hanged by one witness; certainly that is not to be taken for granted.—As to this particular case, I would take captain Porter as upon his oath, for supposition: You have one witness against sir John Fenwick of high-treason; and, with your leave, I desire to examine what you have more in this case.—Yesterday you voted a paper to be read, Goodman's narrative or examination; it is a different case now you have it before you to determine upon. Yesterday the question was only for hearing; but gentlemen now consider how far they ought to believe it, and the other evidence we heard. And first, there is some evidence that Clancy tampered with Porter, and gave him a sum of 300*l.* and so they would infer, because Porter was tampered with to be gone, therefore Goodman was. It was told us further (and I desire I may be informed if I am mistaken,) that Clancy said, he came from sir John Fenwick; and afterwards my lady Mary Fenwick said, she would make good what Clancy had said; and from these arguments they presume, that sir John Fenwick knew of it. Give me leave to tell you a rule I never heard contradicted, that presumption is to be made in favour of life; but to presume a man guilty because Porter was tampered with by another, because he said it was by sir John Fenwick's order; shall we presume sir John Fenwick did it? Is hear-say to be evidence? Or is a man to be had to the gallows upon presumption? How often, and with how much reason, have we heard exclamations against judgments upon presumptions, innuendoes, constructive and accumulative treason? &c.—Gentlemen, there is some further evidence, and that is, of what was sworn at Cook's trial; and some gentlemen thought fit to have the record read, and an examination of what was sworn there. I can never go so far as to think it reasonable, that what evidence hath been given in one case should affect another man; but all this is to be answered, by calling it Parliamentary Proceedings. We doubt it is no evidence in the courts below, but they are mentioned with some kind of disdain, as very inconsiderable. In this case, I beg leave to say this in their vindication, That whatever the rules in Westminster-Hall are, it is not therefore reason because it is a rule; but because it is reason, and reason approved of by long experience, therefore it is a rule; and if they make their rules for that cause, I hope that is a cause why we should imitate them: But I would not have those rules thought matters of form, but substance, or more properly part of the law itself.—Upon the whole matter; if no gentleman will give us a reason why this is evidence, but one witness, and that not upon oath: and if we are to come to our parliamentary discretion to supply that defect, the want of the other, it is a discretion I will disclaim all the days of my life. And I hope you will reject the bill.

Lord *Cutts.* If, sir, the gentleman that spake last had been speaking to Westminster-Hall, I should think that he had shewed a great deal of reason, and spoke with a great deal of judgment; but since I think you are here upon a quite different foot; I shall not follow him (because I will not unnecessarily detain you) to answer every particular.—I remember, when the counsel for the prisoner first spake, they took notice to you, that precedents were procreative, and one begat another, and they are apt to multiply; therefore I do think, it is of the highest moment to you, what precedent you make to-night: And if any gentleman can be satisfied, that the precedent of passing this bill, will be of worse consequence than the precedent of not passing it, I shall humbly submit. I do think, sir, the matter before you is of the highest importance; and I must confess, it is with a great deal of satisfaction to myself, that I do see gentlemen seem to apply themselves with a great deal of seriousness to this debate. Sir, I shall not pretend to make a particular answer to what the counsel for the prisoner did say; as to the precedents of acts of parliament, I think this answer is sufficient at present for that, that if we have no precedent, we are under a necessity of making one. It is told us, that of all the precedents none will justify us in this proceeding; but at the same time it must be considered, that we are in a case, the like to which never yet happened in England.—The first thing I shall apply myself to, is the jurisdiction of parliaments; and truly, I think, it will be very necessary to say a little upon that. I have heard none call this power in question, the thing speaks itself; it is the legislative power, and the etymology of the word tells you what it is: It is a power that can make laws, and abolish them; a power that is superiour to all other powers whatsoever, and we are part of that legislative power; and therefore I shall say no more to that, it being a matter agreed, that we have a power to proceed in this matter. Now I will take leave to observe something as to the particular case before you.—Though a gentleman that spoke some time since, did speak to you of the nature of the crime; yet, with submission, I think there remains something to be added to what he said. The conspiracy of which sir John Fenwick to me appears guilty, is not only against the life of the king, not only to depose the king, not only a conspiracy to raise a rebellion, but at the same time to contrive an invasion from France, and bring in a foreign power. I know not what better expression to tell my thoughts in, than by using a term which physicians use in some desperate cases; they tell you, there is a complication of distempers; and I think this is a complication of treasons: this is the highest crime, and it is attended with all the aggravating circumstances this crime can admit of. Now, in giving our opinion, and passing our judgment upon this matter, I think there are

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two considerations ought to guide us: There is a consideration we owe to the prisoner that is brought before us; and another consideration which we owe to the common security. As to the first of these, it being a matter of blood, wherein the life of an Englishman, the life of a man of his quality and figure, is at stake, we ought to proceed with all the calmness that is possible; and I do agree, if there was nothing but presumption, that ought to be in favour of life. But pray let us consider how this matter stands: let me desire those gentlemen that are of opinion we ought to have so much tenderness for the prisoner, to lay before them another scene, and sort of consideration, at the same time. I do consider the hardship (if I may use that expression) of passing this sentence; I do consider what a condition we had been in, if the contrivance that was laid had taken effect; that is the weightiest part of the matter before you: and though it was disappointed then, I know not how far off it is at present; this ought really to weigh with you. And I hope I may take leave, upon this occasion, to observe to you, what one of the wisest and best of the Romans said upon an occasion of this nature: he tells you, That a man that would consider his duty aright, must consider the matter in all its parts and circumstances; and when that is done, must act adequate, as well to the community, as to himself and his neighbour. I would apply that to the present case; and would desire those gentlemen that express so much tenderness in this case, to have some for the government, and themselves. It was told you, That the prisoner before you does not stand convicted of any crime: It was told you at the bar, That the most we ought to pretend to, is no further than to leave him in the condition we found him: I think, with submission, the prisoner stands convicted of high treason, with the highest conviction upon earth, and that is, the general consent of all mankind; for I will be bold to say, I do verily believe, that there is not one gentleman within these walls, nor that walks the streets, not a living soul, that doubts of his crime. But, sir, I would put this matter yet further; I am not only satisfied in my own conscience and reason, of the justice of your proceedings, which ought indeed to be the foundation of every man's opinion; but I am satisfied, that in this way, there is no hardship imposed upon sir John Fenwick, if he will be his own friend: for I doubt not, upon what hath passed in this proceeding, that before things are brought to the last extremity, if sir John Fenwick be his own friend, if he be so much a penitent and friend to the government, and to posterity, to tell truth, and leave off his dissembling, and be plain; I doubt not but he will find favour. Now, sir, I would beg leave only to answer one or two objections; for some things that have been said against the passing of this bill, I do not think material. One objection that seems to me to carry the greatest appearance of weight, was made by one of the counsel for the prisoner: he said, It would look strange in after ages, that the same parliament should pass the bill for regulating of trials in treason, and this bill of attainder. Sir, I desire you will please to observe how this matter stands; and in the first place, as previous to that, I take leave to observe a few things: It is a proposition generally agreed to, and not to be denied, that that which is designed for the preservation of any creature, ought not to be made use of to their destruction. Now this treason bill was designed for your preservation, to skreen you against the danger of arbitrary power, and the malice of false witnesses; and this bill of attainder is brought to skreen both you and the government from your enemies, both abroad and at home. And I think the treason bill is no objection upon these considerations: besides, the treason bill was only made to be a rule to inferior courts. The learned gentleman that spake last, told you, the rules of Westminster-hall were not rules, because they were observed there, but because they were grounded upon reason. Why, sir, in answer to that, I will only take leave to tell him, that that which is reason in Westminster-hall, does not carry the same weight here. I think that matter was so well explained by the learned gentleman at the bar, that there need nothing be added to it. He told you very well, it is one thing what I trust to do by my servant, and another thing what I do by myself. It is very obvious to any man's understanding, if this power were lodged in the judges, what use they might make of this unlimited power; but no gentleman can mistrust any thing that shall be done by this house. —Another objection that was made by the counsel for the prisoner, was, says he, This is evidence, or it is no evidence; if it be evidence, then, says he, Why do you not try him at law? If it be no evidence, why do you admit it here? Now, sir, with submission, this carries the face and form of an argument; but if you take it to pieces, I think there is no convincing weight in it: For, sir, the reason why this matter comes before you, is, because by the absence of one of the witnesses, according to the formal part of the law, sir John Fenwick will be acquitted; but it is generally agreed, that the consequence of so great a crime going unpunished, may be dangerous to your posterity. This bill of attainder is brought into the house, that you may supply that want of form, you being convinced of the reality of his crime.—Another objection made by the counsel at the bar, was as to captain Porter, whom he reflected upon; says he, shall a man that hath owned himself guilty of such a villany as the murder of the king, of a sudden have such credit as to sway with you? I would take leave upon this occasion, to repeat to you what my L. C. J. upon the bench did observe at Charnock's trial: This same thing was urged and pressed home by Charnock; and my L. C. J. was pleased to take notice, that it consisted with the wisdom and justice of all states and governments to allow of such evidence, because without it they could never come to the knowledge of

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any treason or conspiracy; For, he added, whom will you have an account of these things from, but the actors of them?—And therefore, when they are penitent, and willing to atone for their crime, by doing all the service they can to the state, and justice to mankind, we ought not only to receive, but encourage them.—When the danger the government would be in, if you did not pass this bill, was urged; it was answered, but what danger will you and your posterity run in not passing of it? I think the matter appears so plain and clear before you, that when all the other parts of the question are passed over, I should think it a reflection upon the house, to enter upon a particular answer to it. I had not said what I have said, that I think any part decisive, but to clear myself to the world for the opinion I am going to give; and perhaps what I have said, may give occasion to some others to say something that may be much more to the purpose; but for the reasons I have given, I am for the bill.

Mr. *Sloane.* Sir, I as little care for meddling in matters of blood, as any man, and should be glad to avoid giving my opinion in this case; but I think it is incumbent upon every gentleman that hath the honour to sit here, in point of trust; I think it his duty to them whom he represents, to the king and kingdom in general, to give his opinion when he is clear and satisfied in it; and if I was in the least dissatisfied, I should venture the displeasure of the house to absent; but upon the whole case, and the proof that hath been given, I am very clear that sir John Fenwick is guilty of this treason that he is accused of; and that it is treason without any strain, and well warranted by precedents.—I would first take notice of what is said to your jurisdiction in general; I remember it was said this was an incroachment upon Magna Charta; for by that, no person is to be tried for his life, but by the judgment of his peers. Those gentlemen that have made that objection, have intirely forgot the other part, which is the next sentence; 'Nec super ibimus, 'nec super eum mittimus, nisi per regulare ju-'dicium parium suorum vel per legem terræ.' What do they make that to be? It is true, in the ordinary course of justice, persons must be tried, a commoner by a commoner, and a peer by a peer; but there are several sorts of trials and laws in the land: And when you come to consider what is meant by 'per legem terræ,' you have the commons *lex terræ;* you have the statute law, and *lex loci*, the laws of particular manors; And there are several sorts of trials besides that by jury; there are trials by battle: The defendant in case of appeal may try it by battle, and he that is killed loses the cause. Then there is a law above all these laws, and that is the law of parliament, which my lord Coke calls *lex parliamenti* and *lex parliamentaria* in another place, which he says is, 'ab omnibus inquirenda,' but 'a paucis nota;' and it is not fit it should be known how far they can go (and so it is in chancery), and that is a law that is unlimited, and that is one of the laws saved by Magna Charta. I say, therefore, that without any incroachment upon Magna Charta, or any law whatsoever, you enter regularly upon his trial.—I would answer another thing that was said against a trial in parliament; and I must confess, I did wonder to hear it from that honourable ancient member, That if he was to be tried, he should rather chuse to be tried in Westminster-hall. Why, sir, before I should have given so sudden a judgment as that, I would have considered what my case was: If I had had such a case as count Coningsmark, a bad cause and a great deal of money, I would rather be tried there; or if I could be tried as sir George Wakeman was; but if I had a good cause, and would use no corruption, instead of twelve men that might be corrupted, I had rather be tried by 4 or 500 gentlemen that are beyond it. You see how trials went below, the trial of my lady Lisle, that could neither see nor hear; and there came a person to her house that was proved to be in Monmouth's rebellion, and she was burned for it.—Then as to the case before you, I would offer my reasons why I believe this gentleman to be guilty; here is capt. Porter, he hath positively sworn, that he had another meeting at Mrs. Mountjoy's, and there they did consult, and agree to send Charnock over to France; and Charnock was directed to go with a message to invite a foreign power over here. Now the question is, Whether he is to be believed? And I would go upon the same reasons for believing a Witness, as they do in Westminster-hall; and will go as far along with those gentlemen, as to the credibility of a Witness; But if he be to be credited in Westminster-hall, why is he not so here? And therefore, if they had brought any testimony against his credit, as made him guilty of perjury, or forgery, it had been an objection against his testimony; but it was so far from that, that they did not offer to prove one word of that; but what was said was said from the counsel, and that is to go for no evidence. The counsel did indeed alledge against his credit several things, but did not prove any; and if they had, they would not have taken away his testimony in Westminster-hall; That is, that he was concerned in the late intended assassination, and treason: This was the same objection that was made below; and they brought Witnesses to prove that and some other things, but they did not weigh any thing; for if it should be an objection that he was in the conspiracy, then you can have no evidence of any villainy, for they will never trust honest men with it. Therefore I do take it, that Porter stands before you as a very credible good Witness, without any imputation whatsoever. Then, sir, say they, he is not upon his oath; that is an objection to your jurisdiction, and though they say they own your jurisdiction, yet when they say so, they speak against your jurisdiction; and by the same reason you can go upon no impeachment whatsoever; for you can in no case give an oath.

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Then, sir, they tell you, he is but one Witness, and that it is in the case of treason, and there ought to be two Witnesses; and therefore tho' you have jurisdiction to do any thing whatsoever, yet you have no jurisdiction to go upon this cause. Now, sir, because this seems to be the most formidable objection that is insisted on against the proceedings in this case, I beg your leave that I may fully answer it.—And taking it to be true, that the fact is proved by one Witness, I conceive we may proceed in this cause, though they can't in Westminster-hall; and I do take it, that there is a great deal of difference between one and the other; and I do not take your proceedings upon this bill, being there is but one Witness, to be any strain, but what you may extend the legislative to, without going beyond what hath been done. I therefore beg you to consider what the law originally was as to treason, and how it came to be altered. Before the statute of 25 Ed. 3, it was certain what was treason, and what was not; then the statute came and reduced it, that as to all inferior courts, these are your treasons, and no other shall be adjudged so; but the parliament reserved to themselves a power, that if any case should happen like them, they were to determine it themselves. So, sir, that at that time, and after that time, one Witness was good in case of treason: as now it is at this day for robbery, felony, or any other fact but treason. And till 1 Ed. 6, one Witness was good in all treasons: Then comes two statutes in Ed. 6's time, and the first takes notice, That since the 25 Ed. 3, by several statutes treasons had been made which were unseasonable, and therefore repeals them, and makes several new treasons: Then comes a Proviso at the end of it; 'Provided always, 'that no person whatsoever, after the 1st Feb. 'then next coming, shall be indicted, ar-'raigned, condemned or convicted for any 'offence of treason, &c. unless the offender be 'accused by two sufficient and lawful Wit-'nesses, or shall willingly, without violence, 'confess the same.' Now that Proviso relates only to the treasons particularly mentioned in that statute. Then comes the next statute 5 Ed. 6, and pursues the same words; But now this did not mean any facts whatsoever that were left to the judgment of the parliament, because these facts were not within their cognizance. They are not parliamentary words; indicted, arraigned, convicted, but only used by the courts below. Why, sir, if it be so that one Witness is sufficient, here you have not only one credible Witness, but he is propt up extremely well by collateral circumstances; and though I do not allow that below they can proceed upon one Witness with pregnant circumstances; yet for the reasons given, considering how this evidence is propt up, I think it is sufficient before you: For there was another Witness against him, and it hath been proved what that Witness could have said if he was here; and it is plain that men have died upon the same testimony. I must confess, when I was for reading of Goodman's examination, &c. I was not for reading them as conclusive evidence, nor do I think them so in any sort, either the conviction of Cook, or Goodman's Examination before a justice of peace; but it is a stronger evidence in this case than any other, because the Witness is not dead, nor is he withdrawn by the means of any body but the prisoner, or his friends; which, as I take it, appears upon the evidence: and if so, I think it comes to the case, That if any one gets my deeds, if he will not produce them, they shall be presumed to be what I say they are. I must confess, the acting of his wife or any agent might not be evidence, if it appeared they did it officiously without his knowledge; but being Clancy said he came from sir John Fenwick, and it was for sir John Fenwick's advantage, I will believe it was by his privity: And for myself, I think it no strain, if in this case we take him to be a good second to captain Porter, though it ought not to be admitted in Wesminster-hall.—Then it is said, That you have no jurisdiction to proceed by attainder in this case, where the person does appear, and he is in the hands of the law, and ready to take his trial: I quoted you an instance the other day, 12 Car. 2, where they attainted persons that were dead, without examining one Witness; and I have viewed all the books since, and there is nothing appears, but the bill ordered to be brought in, one reading, and another, and some petitions for making of savings: There is one rank of people that were dead; a second rank, which, as you were told from the bar, were the king's judges: some of which, it is true, were tried by the law: But how? Not by the direction of the parliament: It was before they came into the hands of the parliament: and the parliament takes notice they had been tried. There was another sort that was never tried, but absented; and though they might have come into the hands of the law and been out-lawed, the parliament took cognizance of them, and attainted them of treason. Sir, I do take notice, that there was a fourth sort of people convicted at that time (for if we were confined to the rules of Westminster-hall, no doubt we could not give a lesser judgment than that for treason); there were the lord Mounson, sir John D'Anvers, and others; and the statute recites, that they were concerned in the murder of the king; yet in regard so many had actually suffered, they did not give them the judgment of treason but to forfeit their estates, &c.—This is to shew you the jurisdiction the parliament have over offences, and how they can alleviate the punishment according to the circumstances as they appear before them; therefore I think this is a plain proof that we have a jurisdiction to go on with the bill; and at the same time, I say this, I would put it out of the case, whether the prisoner be a little man or a great man, that is now in judgment before us; and I would put it out of the case, what a good thing his discovery would be; I do not think that a good ar-

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gument; neither do I think it any argument if this man escape, what danger we shall be in: But I do give my judgment from the argument of his guilt, and our jurisdiction.

Mr. *Pelham.* Sir, the learned gentleman that spake last, seemed so very clear in his opinion, when he began to speak, that I was in hopes he would have given me and every body satisfaction in this great point, especially when he began with Magna Charta, which says, That every man shall be tried by his peers, or by the law of the land: I do take it to be part of the law of the land, that no man should be condemned for treason without two Witnesses; but after that he did lay his finger upon the sore, he told you, the great objection was, That the courts of Westminster-hall are so governed and tyed down, that they can't pass any sentence for treason, but upon two Witnesses; and he told you, they ought to be tied so: Indeed he did say we were not tied so: But I own to you, he did not give me any satisfactory reason why he should not be tied so. It is said, we are not tied, and it is impossible we should, for no act can tie the legislative power; and several gentlemen have said, That though there are several statutes that declare there shall be two Witnesses in cases of treason, yet they do say, that in case of attainder by parliament, one Witness may be sufficient. Why may it not be thought, that these acts extend to the legislative, as well as the statutes of Edw. 3, by which it is presumed, That the parliament may proceed upon one Witness? And I take it, That there being no such hint, it is a presumption that the *lex terræ* does crave an observation of it by the legislative power.—I did presume yesterday to tell you, that Mr. Algernoon Sidney did stand upon it as his natural right, that they could not proceed against him, there being but one Witness: I did not bring his case as parallel to this, or think that his authority should influence you; but he was a man that had that love to liberty, and the good of his country, that he would not have said so, even to save his life, if he had thought it inconsistent with either of them: But I have looked upon his trial since, and there he does declare, that the being condemned by two Witnesses, is the law of God, and the law of man; the just law that is observed by all men, and in all places; it is certain he reached even by these words, the power of parliament; When I do say power, I do not mean, but that when such a law is passed, all are bound by it; but in some sense we may say, you cannot do what is not just for you to do; You can do but what is just and agreeable to the trust reposed in you.—The gentleman says, he thinks it a strange opinion of him that said, he had rather be tried by a jury than the house of commons: Indeed, if he could be sure of such a house of commons as this, he might retract what he had said: But I have seen that done in the house of commons, which hath not made me extremely fond of that trial. I have sat here when 6 or 7 noblemen have been declared enemies to the kingdom without any evidence at all, and the reason was somewhat like what it is now. The power of parliaments was brought in as an argument then; and it was said, it was only in order to an impeachment, but no impeachment followed; yet these noblemen went with that brand in their forcheads; and if any disturbance had been, they had been exposed to the fury of the people: And though we are sure of this house of commons, and may be of all in this reign, yet I know not how facts may arise, and what parliaments we may have; and upon that account I am very unwilling a precedent should be made, at least contrary to the usage in all manner of courts whatsoever.

Sir *Tho. Littleton.* Sir, I shall not trouble you long in this debate, that hath taken up so much of your time already, in the consideration of some matters we have been upon; though I did think your time not very regularly spent, till this occasion offered itself: I hope, therefore, now it will take up less of your time. I see the great matter that was insisted on before, is insisted upon still; and I do think we may say it among ourselves, though we would not let the counsel, that we are tyed up in this case by the rules of Westminster-hall; but I believe if that was the case, and the question was no otherwise, than, Whether or no we are tied up by the rules of Westminster-hall? I believe it would receive a determination, that we are not bound up to those rules.—But I will take leave to tell you what I think is proper for us to ground our judgment on: I think one great reason even of those who are against the precedent, why they did admit sir J. F. to have counsel, and to examine Witnesses, if he had any, and to cross-examine the Witnesses, and why they were willing to hear evidence on both sides in the nature of a trial; the great reason was, because that in a case of so great consequence as this is, they would have the best information they could obtain. Why did they desire to be informed, but that afterwards they could lay their hands upon their hearts, and give their judgment upon their private opinion, whether he was guilty or no? They say, we are not to give our judgment upon our private opinion; I always will. (It was not long ago we were not to have our religion upon our private opinion neither:) And when I am justified in that, I will rely upon it. Whether this be strictly legal evidence, I do not lay so much weight upon it, as whether it hath satisfied my conscience; and I believe there is not a man in the house but is so (upon what he hath heard), and doth believe that sir J. F. is guilty; and if we believe he is guilty, I would be glad to know by what rules in the world any man can give his vote against this bill, being of that belief. And I tell you why I think every man believes so; because every man in the kingdom that hath not heard so much as we have heard, does believe him to be so; and I can't think that their representatives only should be of another opinion.—What Evidence have you had? You have had capt. Porter's Evidence, and that would

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be good even in inferior courts; and besides that, you have the evidence of what Goodman did swear before the grand-jury; you have heard what he did swear, and the grand-jury did believe him; you have heard likewise what he did swear in another cause to the petit-jury, and they believed him, and convicted the prisoner upon it: And though this be not legal proof, strictly speaking, will any body say that I have reason to disbelieve this man, and think he had sworn false?—Ay, but here is but one Witness, gentlemen tell you. I will put you a case where I believe this house would attaint a man without any Witness. Suppose two persons had seen sir John Fenwick kill the king; (I believe we should not have pulled him in pieces in a barbarous manner, but he would have had a trial) and suppose before his trial they had been conveyed away, if before they had sworn this to a grand-jury, and they had found the bill, I believe this house would have attainted him for it.—Sir, I do not think that we should stand upon these little niceties, nor be bound by the little formal proceedings of other courts, when the government is at stake. We are sent hither to take care that the public safety do not suffer any mischief from the enemies of it: We have had plot upon plot; and I have heard so much said on behalf of the Lancashire Plot without doors, that I wish we do not get an ill name upon ourselves before we have done. We have this power to exert upon extraordinary occasions; and here is a man that hath endeavoured to subvert the government and well-being of them that sent you hither. I hope you will use it now; and if they knew who were not of that opinion, I believe those that sent them would hardly send them any more.

Mr. *Howe.* Sir, as to the argument, that if it was known how we gave our opinion, those that are against this bill, the people would not chuse them again: I am not afraid of that; I have been told so often, and yet I find the people I live amongst, use me better and better every day; and I believe, sir, they will desire to use me, when they will lay other men aside. I must in some measure support what seemed to be reflected on an honourable gentleman, in that he said, he had rather be tried by 12 than 400. I am of his opinion, and this is my reason for it; I have my lawful challenge in case of the 12; and if there be any on the pannel I have offended, I can desire they may be withdrawn, and that cannot be done in any case here.—But gentlemen put the stress of their argument upon that which nobody denies, and prove it handsomely; and well they may; for it is self-evident, the power of parliament they insist on, when nobody pretends but we have a power to do what we please: but I must say of their power, what Bracton says of the king's power. ' Hoc tamen non potest facere, quod non potest juste facere.' It is said, We are not tied up to the rules of Westminster-hall; we are not so; but I beg leave to tell them, that what is reason and justice in Westminster-hall, is so every where. And I do take these particular points we speak of, to be grounded upon reason and justice, and so far we are to pursue them.—Two evidences was not given as a restraint upon Westminster-hall, for fear they should do something that is ill, for they are answerable for every thing they do ill; but they were allowed to the people of England, that they might have a fair trial; and it was thought conformable to the laws of God, the law of reason, and the law of all countries, that no man's life shall be taken away upon any particular occasion. And for to say, that a man's life may be taken away by two witnesses in one place, and by one in another, is to say, that there is no certain rule to prove a man guilty of a crime that may forfeit his life, which is not admitted in any country whatever.—But truly, sir, we are going a little further; for the gentlemen before told you, there was no need of two witnesses, one would serve; but now they go a little further, for they tell you, there needs never a one at all: for I do say, if every gentleman here is to be guided by his private opinion, there is no man but before he heard this cause did conceive in their opinion some judgment of his guilt. And, sir, I think no man but would have told you, that would have been an unjust judgment.—But they do say, That the bill of treason that was made last sessions of parliament was to limit Westminster-hall; and that I will trust that with myself, which I will not trust with my servant. Why truly, if I, or my servant, was to commit an error, or a great crime, I had rather my servant did it, than myself: but I do not think that my servant should be bound up from doing an unjust thing, and myself should have the liberty to do it. Another thing that law provided against was, that people should not be hanged without sufficient evidence, and these things have been long complained of: but I never thought that the evidence of one witness, and no witness, would be supported in these days.—But, sir, what have you done? We have prevented people being executed by an arbitrary power, and in an unlawful way in Westminster-hall: but if you give this example, you have brought the same proceedings into this house, and that they may be perpetually executed here, and so the subject will be never the safer for the bill of treason.—And I do believe likewise, That it is better that a very heinous fault, or a mistake, should be committed in Westminster-hall for ten years together, than once perpetrated in this house: and my reason is this, Because Westminster-hall have a law to be tried by, if they transgress that law; and there is a way by turning out of judges, and other things; and this house hath no superior power; and when they do a thing, they make it a law: so that this house (as it hath often been observed) can make this nation unhappy, because this house can only establish arbitrary power and misery upon this nation by a law.—Sir, as to the evidence, to say something to it, since every body hath

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spoke to it; for my part, I do confess to you, the longer I sit here, and the more I have heard of this trial, the less I have been convinced within myself, that these witnesses can know any thing of sir J. Fenwick's guilt. I have heard captain Porter give his evidence; but that is no sufficient proof to me: I have heard what evidence Goodman did give to the grand jury; but whether they did ask such questions as I should, if I had been of the grand jury; or whether they did confront him with evidence, I cannot tell. Therefore though the grand jury was convinced by it, it is no reason to convince us; because we might not be convinced by the same evidence.—But to go further: There is very great reason to believe that Goodman was not then at this place, and that not one word that Goodman says is true. I have such reason for what I say, that if Cook's trial had been before this house (not to arraign Westminster-hall, though I think we are a superior power, and I may say what I please of that trial); I say, if Cook's trial had been before this house, and what I have heard be true, I do think they would hardly have found Cook guilty upon Goodman's evidence: for there were three as positive evidence as could be, that he was not at the place when he swore he was. And I observe a little failure in captain Porter's evidence in that point; for I do not think it proved by captain Porter, that Goodman was by when this discourse was: for he says, he spake of this thing at Mrs. Mountjoy's, and dined there. [*Members.* No! No! It was at the King's-head.] Well, there was but one place where it was. Now whether captain Porter heard them talk of it before Goodman came in, or whether Goodman be a good witness, he having been there but the latter part of the time, which seemed to me to be the time they should have given over their talk of the business, they having been so long together before: but it does not appear to me that Goodman can be a good witness.—But I take it, that it is not just nor reasonable to find a man guilty upon one witness, and circumstantial evidence. I did mention a case where there was a positive witness, and a circumstantial witness, it was in my lord Delamere's trial; and yet that was not thought a convincing argument by the lords to find him guilty; and I hope no consideration will oblige us to do that, which I am sure we should blame them for doing.—The consequence of this, gentlemen say, they do not fear. I believe, if sir J. F. had been told, when he was major-general of king James's army, that I should come here to sit upon his life, he would have laughed at it, and thought it impossible; but the contrary has happened: And I have seen parties hang one another with such violence, I pray God we may keep from it: I do not know; we are all concerned in some measure, it having been the unhappiness of this nation, that at one time or another every body hath been concerned, that they may have a proceeding of this sort against them; and this surmounts all that at present gentlemen can do; for it extends beyond all pardons, and will reach beyond the act of Indemnity. God knows who may be served so, notwithstanding all the act of Indemnity.—Sir, there is one thing that is said further, which the gentlemen at the bar conclude with as a substantial argument, that we do not aim at sir J. F.'s blood (God forbid we should), but at his confession: You will hear read the bill once, and twice, will commit and pass the bill, (sir J. F. not confessing), and still this is not to aim at his blood.—But it happens, perhaps, that this man knows no more of this matter; and this man is racked in a manner to death, from reading to reading, because he does not confess; and at last he comes to be hanged, drawn and quartered (instead of high-treason) for not confessing it.—This I take to be the dangerousest part of all the arguments that have been urged: For this I must tell you, That according to my private opinion, I do believe that sir J. F. does know of no more persons concerned (nor do I believe he knows all that he says) than he tells you. He hath not been a man that hath kept company with great men: He hath generally relieved the poor Jacobite officers: There are five people, as I take it, he hath told you he did converse with: I would fain know in what plot any man converses with above five of the plotters? There may be a plot that may be most dangerous, and yet a person that knows of this plot, may not know above two or three others that are concerned in it.—But the great argument is, Take care of your government. In the first place, they must suppose the safety of the government depends upon his execution, or why do they use it as an argument? But I wish they would shew me the government would be one penny the worse, if the bill does not pass. Do you want examples of punishment to deter men. No; you had lawful proof against four or five persons, and they have been executed: Here are examples made, that nobody for the future may presume to plot together, and not be executed.—What is the reason of this Bill then? Why, there is a plot going on. Sir J. F. hath been imprisoned this six months or more; and will you hang him because there is a plot going on? What consequence is that? Do you think that he knows any thing of it, or that he can discover it? It hath been started since his confinement, it may be, and he knows nothing of it: So that as to what is pressed of his confession, I know no one thing would be gained by it, that could be useful to the government; for I believe all hath been discovered already that he knows, and that plot hath been utterly disappointed, and they have been fain to make a new one. Will you proceed in a bill of attainder, unless the matter be of the greatest consequence? The preamble of the bill for attainting the duke of Monmouth, gave a substantial reason for it; That he was in arms and could not be brought to justice. That implied, That if he could have been brought to justice, they would not have attainted him.—

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I think I need not give you more arguments in this matter; I wish I could hear those that have been given, well answered. I shall say no more, but I know this, that my private opinion shall never guide me in this case. It is not the same thing with the case my worthy countryman put: In the case of religion, my private opinion does not affect other persons; indeed it does the papists, where they will murder others that are not of that religion.

Mr. *Norris.* This is a very solemn debate, and it is upon a very solemn occasion. It is a case of blood; it is a case that in my life-time, I thank God, I never had to do with yet; and in this matter wherein I am now to be judge, I will use as much caution as any gentleman within these walls. I am so conscious to my own inability in what I have to say, that I can't expect to convince any body; but what I say, is to discharge my own duty, and satisfy my conscience in that. I doubt not but every gentleman considers the station that he is in, and the trust reposed in him by those that sent him hither: We are intrusted with the lives, liberties, and properties of every man in England; and we are answerable for them to those that sent us hither, to our posterity, and to ourselves. In this matter, many things of great weight and importance are before you: here is the life of a man, the preservation of the king and government, and the power of parliaments to be considered. Sir, as I shall be cautious of taking away the life of a man, so I shall be careful of the preservation of the king and government, and the power of parliament; and though I do not think it requisite, nor never will give my consent to support the government or honour of this house at the expence of innocent blood; yet I shall not be afraid of giving my opinion in this matter, to bring a criminal to punishment: besides the treason he hath committed, he hath crimes of a nature almost equal to treason; and for which, because he hath evaded the cognizance of Westminster-Hall, he is now brought before you; and there are several instances, where this house hath taken notice of offences of a less nature, and for a less reason than this is brought before you.—To quote Precedents, is a little dry subject; but however, I will instance in one, that (I think) does assert the power of parliaments in this case, which has not been mentioned yet; and that was (as I remember) in 3 Rich. 2. of an agent that came from Genoua, who was, by a misfortune, killed upon a quarrel that happened in the streets; he that killed him was brought to his trial; it could not be brought within the statute of 25 Ed. 3, but he was brought to his trial, and it was found only *se defendendo;* but he being a publick minister, it was thought fit that the nation should take more notice of it: and he was attainted afterwards by parliament, and there is a record of it: They did not think fit to make a general law, but they made an example of the man that committed this fact.—A great many gentlemen have supposed this, and supposed that, and what ought not to be supposed; but I will make an easy supposition; I will suppose that we are the commons of England in parliament assembled; and if so, sir, we have a discretionary power to do whatsoever we see is for the good of the kingdom; and if we are to be circumscribed by the rules of Westminster-Hall, and we are to do nothing but what they would do, to what purpose do we sit here; If we are intrusted with this power, and may exert it, I think here is a fit occasion for you to exert this authority.—Sir, give me leave to take notice, That the strain of argument that was used some years ago, is very much altered by the same gentlemen; (I will mention it) I think it was 1678, when the bill of Exclusion was brought within these walls; the arguments ran then (for I have seen them in print) those that were against that bill; What will you do? say they; Will you do this thing? Pass a judgment against a man without hearing of him? Hath he been brought to your bar, to answer what you have to say against him? How do you understand that he is guilty of the crimes you accuse him of? And they did not use those arguments against them that were for disinheriting the duke of York: But the answer then was, Do you dispute the power of parliaments? Is there not a discretionary power in the parliament? I do take notice, that those gentlemen that used that argument for the bill of Exclusion, now use it a quite contrary way. Sir, I think the power of parliament is not to be trifled with.—It hath been urged, and said a little while ago by a gentleman, That he does not believe captain Porter is a good witness. I will give you a good reason why I do think he is a very good one, and they at the bar think so too, because they would have given a great reward to have taken him off; and for the same reason, I believe Goodman to be a good witness too: Sir J. F. was satisfied, that Goodman did know how far he was concerned, and he hath been prevailed with to be out of the way.—Sir, here are a great many circumstances that agree so well together, that (I think) no person can doubt of sir J. F.'s guilt; and, I think, it is in this case in the body politic, as in the body natural, when a man is almost past the cure of physicians, when a man hath a gangrene, or a rotten member, which the physicians by the ordinary means cannot cure, the remedy the college of physicians themselves in that case would use is, they would say, 'Immedicabile vulnus ense 'recidendum est.'—I am of opinion, that the legislative hath this power, and that this is proper occasion to exert it; and to compare small things with great, it is like thunder and vengeance in the hands of Providence, that is not used but upon extraordinary occasions; and then it ought not to fail, for that makes a man trifle with, and despise that power that is not effectually able to exert itself; and if the sword of justice be drawn, if they find it rusty, and will not cut, they will have a mean opinion of your power for the future.—Gentlemen are

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afraid of precedents in this case; for that reason I am for committing this bill, because I would make this a precedent; and I will tell you why; Because it may happen in future ages, that ministers of state, and persons concerned in the government, may be faulty, (I think I may suppose that); and as the law stands now, he is but a bungling politician that can't ruin the government, and yet not come within the bill of treason to be hanged for it: And therefore for the keeping an awe upon ministers of state, and because I would have this house always have it in their power to punish future offenders, as they shall see cause, as well as this unfortunate gentleman at the bar, I am for committing this bill.

Mr. *Finch.* Sir, the question now before you, arises upon a case wherein you have a man accused of high-treason, and for that there is but one witness, which by the rules of Westminster-Hall is confessed by every gentleman, is not legal evidence. I remember the other day, when this evidence was offered, and an objection made to it, the answer was, That we ought to hear it (though in Westminster-Hall they could not do it), because we sit here as judges, and we can distinguish what is legal evidence, and what is not legal evidence, and can give its just weight to every part of it. I do observe now, in this debate, some part of the evidence, which no man can say could have been given according to the rules of law, is insisted upon, and weight laid upon it.—And here they have taken into consideration the power of parliaments; and the method of parliaments has been insisted upon. As to the power of parliament, Whether the parliament can do it? And whether, if the parliament pleases to do it, they are tied up, as gentlemen are pleased to express it, to the rules of Westminster-Hall? That the parliament can do it, it is a hard matter to gain-say, That any thing is out of the reach of the supreme power of a nation, the legislative authority can do every thing: Yet, though gentlemen have said this, and others have observed, That there wanted no authority to prove this, being self-evident; yet give me leave to instance in some particulars in this case, with the authority of the judges upon it, where the parliament have proceeded according to the rules of Westminster-Hall.—We read in Hen. 8th's time, That the lord Cromwell, earl of Essex, was attainted in parliament; and history tells us, That he was attainted by a law of his own making. Now, says my lord Coke, That seems strange; but enquiring of an ancient person that lived in those days, he told him the meaning of it; That lord had consulted with the judges, Whether or no, if a man was attainted by parliament, and was not brought to be heard, such attainder would be good in law? The judges started at the question, but could give no other answer than this; Truly, if such attainder be made, we know no law to find fault with it, for it is done by the legislative authority. It fell out, That the instance of condemning a person in parliament (not according to the rules in Westminster-hall) fell out to be the nobleman's case; for he himself was so attainted immediately after.—Give me leave to instance in another kind of authority, the authority of parliament touching these attainders, and what has been the consequence of them; If you will look into the record of Rich. 2d's time, I do not mean the record that hath been quoted, nor the case of John Imperiall, for killing the Genoua ambassador, which was declared treason in parliament ten years after the man had been tried in Westminster-Hall for it; but I mean the 11 Rich. 2, how many were attainted by the proceedings of those times; I do not mean by acts of parliament, but those attainders were in an extraordinary manner, not according to the rules of Westminster.Hall: And 21 Rich. 2, the whole parliament, and its whole proceedings were reversed, and the parliament annulled: In that year were the persecutors of the 11th year themselves attainted: And 21st year of Rich. 2, the act that repealed that parliament repealed the pardon too; but in order to come to the attainder of those persons: That being done, was not enough; for the lord Arundel had a pardon the 17th of Rich. 2. Upon that they made a law to repeal his pardon by patent, that they might come to the attainder of that lord; and that lord was attainted by act of parliament. But I must observe one thing a little further, That that very parliament, that doubtless knew their own power well enough, and that their attainders were firm, being made by the legislative power, yet they had a little jealousy themselves of their proceedings; for they passed an act to make it capital to go about to reverse any of those laws; and another act, that all the lords and bishops should be sworn. Now see what fell out after: Rich. 2, was deposed, for consenting to those laws; and Henry 4th, in the first year of his reign, abrogated the whole parliament, and repealed all those laws. These turns have been upon these extraordinary proceedings of parliaments.—Give me leave to give you another instance, and that in another case, as odious as possible could be. In the murder of Edw. 2, there was Roger Mortimer attainted in the first year of Edw. 3, and the record says, That it was notorious to them all: And what then? They adjudged him to be attainted in parliament. When time had a little worn off that extraordinary zeal (which truly was commendable, though it had transported them a little too far beyond the rules of justice), and they came to consider what precedent they had made for posterity, it had another face; for in 28 Edw. 3 was that attainder reversed, because he was not brought to answer as he ought to have been. There was also an act for attainting the earl of Arundel, which in the same 28 Edw. 3 was reversed, because he was not brought to judgment by due process of law.—But now we are told, we are not tied here to the rules of Westminster-Hall. Gentlemen do not enough distinguish in this matter; the forms

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of Westminster-Hall, say some; the rules, say others; and others say, there is no difference between the form of proceedings, and the rules, of Westminster-Hall: But I hope no gentlemen do think but the parliament, though they have a power to act as they think fit (as instances have been given), yet the parliament itself are tied by the rules of common justice. Now I would have gentlemen that say we are not tied by the rules of Westminster-hall, a little to consider the matter. Are the rules of Westminster-hall no other than what are necessary for the executing of justice? If they are no other, how can we be said to go according to justice, when we go beside those rules? I desire them to consider of the consequence of this proceeding; there is no danger, I hope, of this parliament: But if we shall say, that the rules of Westminster-hall are not such as are necessary for the proceedings in a course of justice, we shall shake those barriers of our liberty and property, I am afraid, a little more than gentlemen think of at present: And shall we declare they are not necessary, when our ancestors have thought them so, and their wisdom hath derived them to us, and the wisdom of the nation in parliament hath established these rules?—I can't say what consequence may follow upon this. This parliament can never do any thing to endanger the lives of the people of England; but heretofore parliaments have been damned with several brands, set upon them by succeeding parliaments: As for instance; one, I think, in the 38 H. 6, 39. That parliament was wholly repealed, as packed, and passing laws through rancour and malice, and having passed no good ones. Now, suppose a parliament should come, that should not be so tender of the liberties of the people as this; and they should be so bold as to shake those laws that are made for the rules of justice, if they have so good a parliament to guide them in it: Will not this be an inducement to such a parliament as that, to shake all our laws and liberties? But I can't trouble you any longer, my head will not give me leave. I am against the bill, and have offered you my reasons.

Col. *Wharton.* I hope gentlemen, in a matter of this moment, will have patience to hear one another; and since every gentleman is to give his vote in this matter, I desire to give my reasons for my vote: I am of the opinion of another gentleman, that we have not touched the sore yet; yet I do not think, that the rules for Westminster-hall are rules for us. The gentleman that spake last, as he always does, made a very florid and elegant speech, and brought you several examples of attainders that have been condemned from one parliament to another, in several reigns: But I do not wonder at that, when the crown went from one to another. An instance was given in the case of the lord Cromwell, which was spoke to from the bar; and sir Thomas Powys laid a great stress upon it, that this was condemned as a wrong judgment, because he was not heard: I believe that may be a reason why many of those attainders were condemned; perhaps it might be a custom of our ancestors to pass bills of attainder without hearing the party. This person hath been heard, and fully heard; and I believe no person, that hath been attainted, hath had so fair a trial; and therefore parliaments having condemned bills of attainder, because the persons have not been heard, that will be no reason why any parliament should condemn us. A gentleman told you, that the law of God and man was not to condemn a man but upon two Witnesses; but there are many instances to the contrary.—It is told you, That Porter, here before you, is not a good evidence, because he is not sworn; and that you are to go by the rules of Westminster-hall. Says the gentleman that spake last, you are to go by their rules, but not by their forms: I must confess there is a great difference between them two; for a form is only the manner and method by which we proceed in doing of any thing; but the rule is the foundation we are not to err from; But I can't agree we are upon the same rules as Westminster-hall is: The rules of Westminster-hall are, when a man is brought upon his trial, the jury are all to be upon their oaths; by which oath they are to make a true judgment according to law. This is not the case here; if I was a juryman, and was to try a man, and one Witness swore against this man, and no other Witness; though I did in my conscience believe him to be guilty, yet in that case my conscience is discharged, and I must find him not guilty: But no man can say this is the case here.—What are we now a-doing? Here is a bill to attaint sir John Fenwick of High-treason: If I reject the bill, I do declare him not guilty; and if I do think him guilty, I do declare against my own judgment; for my judgment here is not bound up as a man's judgment upon a jury: for his judgment is bound up to proof, according to law; and my judgment is bound up by my own belief: This is the proof I must go by; and I think every man is bound in justice and duty to his country, as he believes sir John Fenwick to be guilty, to be for the commitment of this bill; and till any gentleman will convince me, that this is not a rule I am to go by, I must continue in this opinion.

Mr. *Boyle.* The disorder that worthy gentleman was in, makes me the more concerned for fear of falling into it myself. I hope, in this debate, gentlemen will be very cautious of using it as an argument, what application our votes shall have without doors, and with those we represent, when we are to give judgment, as far as in us lies, for the life and death of a man: And therefore I must observe, that the eagerness that is justifiable upon impeachments, may not look so well now we are judges upon a bill of attainder. You have gone over the whole course of the evidence, and I believe that this debate will shew you pretty plainly, what is to be the fate of this bill; for I believe all the arguments will now be used that can be: As to what hath been said of extorting a con-

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session, I take it to be quite out of the case. I am sorry to be engaged one way of another: I would not, if I could help it, out of the house, be upon a jury of life and death; yet in that case, I should know the law, or be told it by the judges: But in this case, we are both jurymen and judges, and know not what rules we are to go by; but set up a court of equity, which hath no bounds but our own consciences. —As to sir John Fenwick, I known him not; as to his cause, I am sure I am against it; but how far I think him guilty or not, I think is not the single point to be considered: I must confess, there have been several people accused of this conspiracy, and have been named by the evidence at the trials; and I believe they are much alike guilty, being upon the same evidence; but as to all that hath been opened before you, and proved, it can amount to no more than this: There is but one evidence, which by the law would not be a good evidence to convict him in another place; and therefore I do agree with the gentleman that spake under the gallery, that this is a very extraordinary case; for one Witness is not sufficient at law to convict him, and the law would be very different hereof. I am to judge according to my own opinion, and not by the rules prescribed by the law; but though this proceeding is not strictly according to the law of the land, yet if it was such an extraordinary case that required you to dispense with those forms, and come to this extraordinary manner of proceeding; I think, for my own part, it might be supported by the necessity of it; for it is impossible that it should be otherwise in practice; Thus, when the government is at stake, and nothing will preserve it, but the breaking through the settled forms, then the government will break through them; and whatever rule you prescribe, it will always happen so.—There is a very extraordinary case, and that was in the conspiracy of the state of Venice, above 100 years ago, I think, set on foot by the Spaniards: Then the state, to get the whole matter out, promised a pardon to as many as were concerned in it; and after they had promised it, and treated with them, about it, they thought it necessary, for the preservation of the whole, to break their faith, and they were all put to death. This was upon point of preservation of the government.—But sir, as to Precedents, give me leave to say, I do not give that authority to them, unless I know all the springs and secret histories, and transactions that were their guide in making those precedents; and as to precedents that have been quoted, when the parliament has declared what was treason, and what was not treason, or have declared constructive treason, they may be grounded upon the statute of 25 Ed. 3. But I think there is no statute upon which they can ground the condemnation of a man upon one Witness.—In the case of my lord Strafford, upon constructive treasons, it was there said, that it was a fire that had lain hid for 240 years, and that it never broke out before, but to consume him and his posterity. It was answered by Pym, If that was the case, it was not for want of law, to justify such a proceeding, but all that time had not produced such an offender.—I do not doubt, but if any one will consider the late conspiracy; and if that was the question, but it was as extraordinary as any thing can happen; for it was to subject their country to a foreign power, which is very extraordinary, and several persons were concerned in it: But there is one extraordinary part which I do not remember this gentleman is accused of; and that is, the assassination. Treason itself is a very extraordinary crime; but give me leave to say, that extraordinary part is not alledged against this gentleman; and this bill does not seem to be brought in for that, wherein he is concerned in common with some others, but for the subsequent matter alledged in the bill. This bill is grounded not so much upon that he is guilty, as a great many more are, as upon several circumstances which have happened to nobody else. Give me leave to instance in a case, now in my head (I beg your pardon that I ramble, it is from the awe I have upon me from this assembly), in Cataline's conspiracy; and if that was our case, no doubt there would be another sort of argument for it; there they consulted what to do with Cathegus, and the other conspirators; he was at the head of an army, which only expected his orders to lay Rome in ashes; the question was, Whether they should break the Porcian law; and for the safety of the senate they were put to death before the assembly rose.— Now to come to this part of it: Though sir J. F. is a great offender, yet I think his case is not so extraordinary, as to make you proceed upon this bill. I do take his living or dying not to be of that consequence as this bill of attainder. I know not how he comes to be so considerable when in hold; for when he walked about town, I never heard he was feared or regarded at that time.—But to come to the allegations in your bill, upon which they are to ground your judgment: The first part is a new conspiracy, that is, for intending to create a jealousy between the king and these noble persons. As to them, you have already passed a vote in their justification; and I think their actions may justify them to the world, as much as any vote of the house of commons; but whatever that may be, I think it was a foolish piece of conspiracy, as well as an ill one, for one when he was in danger of being hanged for one Plot, to venture upon another; and I think, there was at that time two Witnesses to bring him to his trial, and that is an allegation in the bill. And as to the protracting of his trial, it is natural, and so justifiable, whether innocent or no, and what every body attempts; and nobody can wonder at it; but in one case or the other it can be no sufficient ground to attaint him.— The next thing that is said is, that he hath been the occasion of the withdrawing of the evidence. Now I must observe, that is not alledged in the bill, and is proved but by hearsay: But suppose it was true, and alledged;

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any man concerned in treason shall endeavour, by friends, or otherwise, to get off an evidence, can that amount to that which is designed to be punished by this bill, to High-Treason? It is the part of those that are intrusted with those matters, to be in expectation of such practices. What are gaols for, but to keep them in custody? And the people employed in those businesses are to take care of it. Are we to supply a defect of what ought to have been done in another place?—So that I do say, that a precedent in an extraordinary case is no precedent to be used in a little case. It may be urged, but it is but a pretence, when you have passed this bill, which is the record, the matter will appear no otherwise than are the suggestions of your bill. A man hath aspersed great persons, which is a great fault indeed, (for he is not charged with the withdrawing of the evidence) therefore attaint him upon one evidence. I think by this bill you will open a door for a precedent of all treasons of the same nature. Sir, there have been many precedents mentioned; I will trouble you with none, because most gentlemen have read the argument of Mr. St. John's in this case. I must confess, unless there was that necessity as is pretended, which I do not see, I do not see how you can justify passing this bill of attainder, either by the law of God or man, in any nation allowed. I must confess, I have no manner of concern how this question goes; what I have said is more to satisfy my own judgment, than work upon other people. I am not satisfied there is that necessity that is pretended; and therefore as my judgment is now informed, I can't give my vote for committing of this bill.

Mr. *Smith.* Sir, I own myself to be very unfit to speak in this argument; but since I am to give my vote in a matter of this consequence, I beg leave to give my reason why I give my vote, as I intend to do. I know the matter before us, both in the nature of the crime and punishment, as well as the consequence of it, requires a very deliberate consideration; but, at the same time, I do take the hazard and danger of this government to be a matter of great consequence too.—Though there have been several precedents instanced in relation to attainders; and though I have observed, that most have acknowledged, That they might be justified upon extraordinary occasions; yet when they have asserted that, they have told you, they were upon a wrong foundation, and so were laid aside. Now, I think it no great matter to say, That those attainders that were made in rancour upon contended titles, were reversed when the opposite party got the power, no more than if any action, be it never so justifiable, should be reversed when king James comes again, which I hope will never be. Is it any argument, that when Hen. 4 came to the crown, and deposed king Richard, that he reversed all the attainders in his time? There might be reasons might sway with persons for reversing particular acts of parliament, which might be very good, or might be not so, there was such a change of government at that time; but they take notice, it was made a particular Article against Richard 2, as if when the power was come to other hands, they would not have deposed him if they had not had that argument: Neither do I take that argument to be of any weight, That attainders have been reversed, because the people have not been heard; when this gentleman hath had as full a hearing as ever any person had upon any bill of attainder, or impeachment whatsoever; and he hath had the advantage of counsel in this case, which, as has been told you, was excepted out of the late act of parliament, and of the most able counsel too.—It is said this is a matter of no great consequence, because it concerns sir J. F.'s life singly; and he is not thought to be so considerable, as by his escape to bring the publick in danger. Now it hath been always one principle I have laid down, That if a plot be discovered, and not thoroughly prosecuted, it strengthens and grows upon you, and ten to one if it does not subvert the government.—Now, God be thanked, that we have prevented the design upon the king's person, and several have been punished for it; but I think we are not got to the bottom of it, and that we ought to provide against it in a much other manner. Can any one think that sir Wm. Parkyns, or sir John Freind, and the rest that are discovered, were the only persons concerned in this conspiracy? I take it, that there have been much greater men in it; and when I see such a struggle both to get people out of gaol, and send people out of the way, and all arts used that can be, I must suppose, when such extraordinary courses are taken, that there is something extraordinary still to be done; and I would not have men by bribing of witnesses think to secure themselves: It hath been used as an argument to lessen the matter, That this was a little after the act of indemnity. Can any thing aggravate a thing more? Sir, these very arguments turn against them.—We are told here, that we must not consult our own private judgments in the matter; and we are told, at the same time, if there were two witnesses that we did not believe, we must not find him guilty. We are told of a judge, that though he knew a person to be not guilty, yet it was a commendable action in him, that he condemned the man: But that hath been very well answered already, and I shall not meddle with it further; only this I will say, that I never will in any case be a jury-man or a judge, where the convictions of my own conscience shall not govern me, but an evidence that I do not believe. And because that story was told you, I will tell you another, that I think more commendable: And that was; a man was tried for a murder, and there was positive evidence against him. The jury went out, and stayed a great while: There was eleven against one for finding him guilty; but at last the one almost starved them, and they brought the man in Not Guilty. The judge

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sent for the gentleman, and desired to know his reasons for differing with the rest: And, at last, upon assurance that nothing should be done to him, Why, says he, would you have me find the man guilty, when I was he that killed the man, and he was innocent? Then, sir, if you take the evidence as it is; I think, first, here is captain Porter; I do not find any body excepts to him; and his evidence hath been approved of by several juries, and several persons executed upon it, and nothing material hath been objected against it. I will not say, That sir J. F. had owned a great deal of this himself; he hath given every body satisfaction how far he stands guilty in his opinion; but it is brought so far home, that there was sir J. F.'s own letter was to convey him abroad. Here hath been attempts upon other persons; you hear what hath been done by the Solicitor. They say, he was not his solicitor at that time. Here are very pregnant circumstances. One gentleman said, you ought not to make use of Goodman's evidence here; and yet he could make use of every thing to disparage him; for he could say, there were three positive witnesses against him.—Now when it is so notorious what parties there are for king James, and we find persons plotting in every part of the kingdom: When you have an open invasion before you, and when designs are laid against the king's life every day; if this be not a time to exert an extraordinary power, I submit it to you.

Sir *Rd. Temple.* Sir, I shall not trouble you with any thing that hath been offered to-day. That which calls me up, is the danger of the precedent you are about to make, and the arguments that have been used to support it; which, I think, are more dangerous than that. I must confess it is a new doctrine to me, That the laws that are made by the parliament, are to be no rule and guide to this house. Sir, the birth-right we have is in our laws; and I did ever think till now, that the laws were not only made for Westminster-hall, but for all the subjects of England; and especially, that they were to be a rule to the parliament that made them, till they should think fit to alter them.—Here have been great mistakes between the power of parliament and the jurisdiction of it; the power of parliament is to make any law, but the jurisdiction of parliament is to govern itself by the law; and this, give me leave to say it to you, hath been the opinion of all your ancestors, and the method they ever used. Shall we make a law here in a particular case against all the laws of England? It is *ultimum remedium et pessimum;* you may use it in a case of absolute necessity, but otherwise it may be a precedent to overturn all.—There are several things in making this precedent, that overthrow all the laws and liberties of England: First, you are passing judgment upon a man upon one witness. I have heard a strange debate to-day, That there was but one witness in treason, before the statute of Edw. 6. You know, that in case of treason, there was by the common law required two witnesses: for if there was but one, the party might demand trial by battle, and that was the common law of England.—There is another thing that is extraordinary: Here you are going to pass an act without any trial at all: For to say this is a trial before you, the commons, is a mistake; you never did assume a jurisdiction of trying any person, nor can you: You may for your own information hear what can be offered, but it is not a trial, where witnesses are not upon their oaths. There is no manner of power or jurisdiction can be pretended for you to try; in that is a second thing. All the bills of attainder you have had, have been in three cases, where the persons have been either dead, or fled, or have been without the compass of the law, and could not be brought to answer: And you have had some bills of attainder after trials had in Westminster-hall; but never a one of those have been called trials, but they have been generally reversed; and for what! They tell you, that they have been reversed by one party and another party: It was in the same king's reign, in Rich. 2's reign, they were forward and backward, as the court party or the country party were uppermost.—There is another thing in this, that I think of a most dangerous consequence; and that is, that you are for making way, for what I know, by this precedent, for a rack, for so it is said; this is to force a man to be an evidence. Why, give me leave to say to you, it is a new way not known in England, that you will hang a man unless he will confess or give evidence; but I think it is something more than a rack, for here is hanging, drawing and quartering in the case; and I do not think this proceeding will make him an evidence with any credit or reputation to this house, nor am I of opinion, that he can discover any thing worth such a precedent.—Now give me leave to say one thing as to the jurisdiction of parliament. It hath passed here for current, That the parliament hath a power to declare what they will treason, though so by no other law; It is the greatest mistake in the world: I heard a great debate upon this, upon my lord Clarendon's Case; and it is plain, that statute relates only to cases brought from inferior courts to parliament; for it says, That if any other case supposed treason, which is not in that statute specified, doth happen before any justices, the justices shall tarry, without going to judgment of the treason, till the cause be shewed and declared before the king and his parliament, Whether it ought to be judged treason, or other felony? I speak to the jurisdiction that the parliament has by that statute: It is, that if the like treason, for at common law there was a great many treasons, should fall out, and be brought before inferior courts, of which they doubted, whether they were treasons or no? then they should be brought before the parliament, to judge whether they were treasons or felony: But how shall they judge? By the laws in being. And who is this judgment in? Not in the parliament

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by bill, but only in the house of lords: Much less is it. That you may judge that to be treason in this house, that was not so by the common law before. So that, give me leave to say, therefore there is no such power reserved to the parliament, to declare any thing treason that is not treason before.—I must say, it is of the last consequence, that we should make a law in a particular case, to take away from him all the liberty that belongs to a subject. Some gentlemen talk of the great favour he hath had at this bar: I know not what to think of it; I am sure you allowed the king's counsel such privileges as I never saw before, and that was, to offer that for evidence that every body acknowledged was not so; and I do not think any body would think it a great favour to be heard in this manner, especially to things not in the bill.—It is said, every man must go according to his private opinion, it is not said judgment neither; the instances that have been given are of a quite different nature: A man is not to give his judgment against his knowledge: I think that judge ought rather not to have tried the cause at all; but if we sit here to judge, we sit to judge him according to the law of England, and then we must judge him according to legal proof. Will you sit upon a judgment that is not only not tied to the rules of Westminster-hall, but is not tied to the laws of the land; and attaint a man without a legal trial, without legal evidence, and upon one witness, when the law says, you shall have two; and after all, say it is a reasonable proceeding? I know not how it came about, that the act of grace was passed; it did not rise from this house: If it hath any ill consequence, let them answer for it that were the cause of it.—They say the government is at stake, because the plot hath not been found out to the bottom. That is not our fault: This man hath been long enough in custody; if he hath trifled with the government, I am sorry he hath imposed upon them; but if it be so, I think there is nothing in this case, of that consequence, as to make you make this precedent.

Sir *Wm. Strickland.* Mr. Speaker, I would not make use of any ill precedent: And yet if the present occasion, and the necessity of the kingdom required it, I would make a precedent: I am glad the several ill precedents are avoided in this case, and I would be bold to say, whether this gentleman suffers or no, no man can say that he hath been hared to death by counsel.—Sir, I should be as tender in point of blood as any man; but I do think, if the safety of the king and kingdom is concerned, it is not one private man that we must have respect for, so as to let the public suffer by it. I do think, that upon this occasion there have so extraordinary things happened as have hardly happened in former ages; that one who is known to be in a conspiracy to bring over a French power with a Popish army, to destroy our lives and liberties, after his trial has been deferred by his equivocations and pretences to make a great discovery; when he comes to make it out, he accuses the best of your friends; and this is only an artifice to get time till they could get the evidence out of the way; think, if you do not take notice of it, and let the legislative supply that defect, it may be of ill consequence, and may encourage any one to commit the worst of mischiefs, upon hopes, that if they can get the evidence out of the way, they shall go unpunished.

Sir *Fr. Winnington.* I shall trouble you but a little while, it being late; but gentlemen saying it is an extraordinary case, I shall give my reasons why this bill ought not to be committed; for every member here now is a judge, and he must take the blood of this gentleman upon him in judgment, either to condemn or acquit him; and I must confess, I have very much admired, to hear that doctrine preached, That every man, as he is satisfied in his private conscience, ought to judge this man guilty. I desire to know by what authority we sit here? We sit here and have a legislative authority, and it is by the king's command we come together; but at this time we are judicially trying this man for his life; and therefore I humbly conceive, That we ought to proceed *secundum allegata et probata;* and for any man in his private opinion to say he is guilty, he does not act by the commission he sits here. For to tell you of the Lancashire Plot, or that a man shall not be chosen hereafter, seems to be argument to enflame, but nothing to the question.—Now, sir, I will humbly offer to your consideration, and the judgment of the house, why I think we cannot judicially condemn this man, for I think the question of commitment to be the same as of his life and death.—I do agree upon all the precedents good and bad that have been cited, and doubt not but in extraordinary cases, it is in the legislative power of the parliament to look after the safety of the kingdom; but I shall offer why this does not come to that case.—I humbly conceive in this case, for I will not speak to the rules of Westminster-hall, but upon the right reason of the thing; for if it be reason in Westminster-hall, it may be so here, and that ought to overcome every-thing: But whereas gentlemen say you have one witness, I do not apprehend you have one good witness, and I will give you my reason for it, for you must take capt. Porter upon his parole, and consider what he says upon his word; and then I do appeal, if you take what he says upon his word, whether ever they did know that a bill of attainder proceeded against any man upon bare affirmation? No; in that case you should have turned it into an impeachment, if the thing looked probable, and then you had the witness upon oath; and the ancient method of bills of attainder used to be first by the impeachment of the person, and then to turn it into a bill of attainder.—Now see what it is that is insisted on by the king's counsel, and recited in the bill. That there was a bill of indictment found by the oath of two witnesses, that is, Porter and Goodman: Under favour, I think they are not to be counted

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us witnesses in the point; and I offer this as a reason; and, I think, it is natural justice in all courts of the world, That if a man be accused as a malefactor, he hath the liberty to cross-examine the person that accuses him. Now we very well know, that in case of bills of indictment, when they are found by the grand-jury, they never admit the prisoner to put cross-questions, because the bill of indictment is but the accusation; and if an accusation be enough, who can be innocent? Why, then if it be so, then this oath that was given to the grand-jury, is not such an oath upon which you can put such a value.—Then, sir, go to the paper of Goodman, which you would read, and consider the validity of that; Goodman being now absent, the prisoner hath no opportunity to cross-examine him; and I beseech the house to consider the ill consequence of it: Any minister of state may come and get an examination before a justice of peace, or secretary of state, and the man is conveyed away, and a bill of attainder is clapped upon his back, and this shall be read as evidence against him: He is but half a witness, and a witness upon an accusation, not upon a trial.—Then come to sir John Fenwick's particular case; sir J. F. is indicted, issue is joined, and he hath notice of his trial; and one of the witnesses goes away, no man can tell upon what account he went; I may believe why, in my private opinion, but that is not our judicial knowledge: Then if that be so, was it ever known, that when any man was indicted, and issue joined, because his trial was deferred, therefore a bill of attainder must be brought against him? Here are plots against the government, and it may be forty may be taken up for it; and as to twenty, there may be two witnesses, and the others may have the good luck to have but a single witness against them; will you have acts of attainder against all the rest? If this had been an extraordinary case, wherein the government had been particularly concerned, it might have weighed with you: for no man can shew me any precedent of a bill of attainder, but where there was open act of hostility, or men of great relation and power were concerned to subvert the government. But what is sir J. F.'s case? He is in custody, and the plot is detected; if he was run away, you might still suppose he was plotting against the government, because he was fled from justice. Gentlemen say the government is concerned; so it is in every felony and particular treason; but must there therefore be a bill of attainder to punish it? When there is a bill of attainder, it must be from an immediate danger that threatens the government established, that such a man is attainted. But I do not see that sir J. F. hath any of these circumstances. All men agree, That this is an extraordinary way of proceeding: Then the question is, Whether sir J. F.'s case be extraordinary? or, Whether he be more than a common malefactor that is in a wicked conspiracy? I do not see that this case of sir J. F.'s is so extraordinary, that if he be not hanged, the government must fail.—And, under favour, a precedent, when it is once made, I know not what time may produce from it: It may be, after the death of his majesty, that came to restore our liberties, we may have wicked members, and members chosen as in Hen. 6th's time. It may be the condition of every subject in England. The power of parliament we must govern by reason and common justice; and if there be not so urgent necessity to use this extraordinary remedy, because it may be dangerous to posterity, therefore I am against this bill.

Sir *Tho. Littleton.* The worthy gentleman took notice, That the Lancashire Plot, and some words I used, were used only to inflame; I can't so well guess at his thoughts, but I have heard him several times bring his wife and children into his speeches, to no purpose at all.

Sir *Fr. Winnington.* I have a wife and children, and that gentleman none; therefore I think I may make use of that expression.

Sir *Tho. Seymour.* Mr. Speaker, I have attended your debate with the best attention I can; and I have heard a great many arguments, and some very wild ones too. I hope, how frightful soever things have been opened, they will not lead your understanding out of the methods and rules of justice. I will not take upon me to tell you, what is nothing to the question, as, that treason is a very great crime, or, that the parliament hath an unbounded or unlimited power, and are not tied to the rules of Westminster-hall; I think that is no part of the subject matter before you.—That nothing bounds or can limit the parliament, is what every body does admit; but it is the right application of that power which is now to be considered of: For you may judge the prisoner, and others will judge you. The world will judge you, if you do not apply that power aright.—For my part, I shall avoid as much as can be, the saying of any thing that hath been said; and therefore I hope you will believe that my discourse must be very short: But that which does move me in this question, is in short this, That I do not give my judgment to condemn any man otherwise than the law directs how, and upon what terms I must give it. If the law hath said, That treason is not to be treason, unless it be proved by two witnesses, I am never to give my judgment in that case, when there appears but one.—And this I take to be the state of the case, not to enter into matters of precedent of attainders; for those are only instances of so many facts that have been done. And in all those instances that have been urged and quoted, when times have been sedate and quiet, marks have been put upon them, as was hinted by a gentleman that spake very ingeniously upon this subject at the beginning of this debate; I say, marks have been put upon them for you to avoid, but not to imitate. I take it, that the law hath determined that there shall be two witnesses to the proof of treason, and there is no treason that hath not two witnesses to it.—There is but

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one attainder that we meet withal in sacred history, and that is the attainder of Naboth; he was attainted, and we know what induced that attainder; he had nothing to object as to the formality of the proceedings there was set up against him; And though Jezabel's letter had disposed the rulers to deal by him as they did, yet there were two witnesses that did appear against him—I take it, that two witnesses are requisite for the knowledge of the truth, that you may make a right judgment whether they swear right or no. I will give you but one small instance more; I must tell you, Susannah had been but in a bad condition, if one witness or circumstantial evidence would have made her guilty.—A gentleman here says, 'Tis Apocrypha: But that which weighs with me is, that there may be inconveniences on one side, and there are no inconveniences on the other. I know not what may be the consequence of this precedent, nor where it may bring you: I know the consequence, if sir J. F. be not executed upon a bill of attainder; for nobody will believe there is a necessity for this extraordinary remedy to be applied for an offence, a year and half after he hath been indicted and arraigned for it, and they might have proceeded to his trial; and I know not whether it is his fault that they did not; for it was not in his power to prevent it: And if you, upon every occasion, come to supply the defects of them that are remiss in the government, it will make them more so.—As to the matter of Precedents; Why, it may fall out, that by this precedent an innocent man may be punished, and then we that make this precedent are guilty of his blood; and if he suffer never so remotely, it will be required of us, if they proceed from this precedent. Now, if sir J. F. be not executed, unless in a legal way, what is the consequence of that? Is it that sir J. F. shall go unpunished? Though they are deprived of one evidence, that would make it treason, he may be punished for a misdemeanor, and imprisoned for his life; and I had much rather he did languish in that condition, and I am sure it is much safer for you, for no inconveniency can arise that way; and I take it, that when those that are our guides dispute which is the way, we are to take that which is the safest.—The learned have disputed, Whether this matter, as now it is charged upon sir J. F. be treason; I will not take upon me to determine it; they differ about it; and when they can't determine it, will you by a question determine it absolutely?—Upon the whole, there hath been so much said by the counsel for the prisoner, and so little said by the counsel against him, and so few arguments urged against him, that I must still retain the opinion I had, That there is not evidence enough for you to proceed upon this bill of attainder.

Mr. *Boscawen*. Sir, I desire to give my reasons for my opinion in this matter. I have no personal disgust against sir J. F. The great argument for sir J. F. against this bill is, that this is an extraordinary proceeding, and therefore should be against an extraordinary person; and in the next place, that it is against the rules of law. The rule of the law is, that there must be two living witnesses: as to that matter, gentlemen generally agree, that it is within the law of parliament to attaint people by bill of attainder; but they say they have been often misapplied; which I do easily believe, because some have been attainted, and have not been heard; and some have been in tumultuous times: but this gentleman hath had a fair trial, and a debate in this house: but I would fain know, though they confess bills of attainder may be, how it can possibly be, if the lawyers at the bar say true, that it must be upon oath, and you give no oath? To say it may begin in the house of lords: under favour, I take it, that a bill against a commoner cannot begin in the house of lords. And if you cannot have witnesses upon oath, you must have as much evidence as the nature of the thing will afford; that is, you must have witnesses to convince your consciences in the thing; for if all this great assembly are satisfied in their consciences, that he is guilty of inviting an army of French to come into England, I am astonished to think, that you should not pass this bill against him. I think, as to this witness, Porter, they have not endeavoured to blemish him; but their argument seems to run more upon Goodman's not being present. I would know, if there are two witnesses, and I do not believe them in my conscience, whether I can pass this bill? But I appeal in this case *res ipsa loquitur*; the thing is so plain. How many have been attainted and suffered for the same crime, that have acknowledged sir John Fenwick to have been present! There were several members of the house sent to examine sir John Freind and sir W. Parkyns in Newgate; and they were sent with this intention, That the house would intercede with the king for a pardon for them, if they discovered the full of the plot (it was not the death of sir W. Parkyns and sir John Freind that was aimed at, but the preservation of the public); and when they were examined, they did acknowledge, that they were privy to the calling in of the French, and that sir W. Parkyns was to have a troop of horse; there was to be 2000 horse: but he would not redeem his own life with the blood of others. Now I do take it, that there is evidence against sir J. F. sufficient, in a parliamentary way, to attaint him.—The gentleman says, the consequence of throwing out this bill would be nothing, and that sir J. F. is a little man: I agree he is, but it is the consequence of bringing in a French army that is to be considered. Would you pave the way for them to come over, and make their entrance easy? I hope the people of England are concerned in the case, as well as their wives and children. If you let him go, what will be said? I have not heard one say, that he believes he is not guilty; there is none but think him guilty; and yet will you let him escape? What encouragement

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will this be to your enemies? He hath not denied the matter himself: Nay, he hath not brought one gentleman to vindicate him, that he is a man of a behaviour not to be believed to be guilty of such a thing, which was done in other trials. I desire you would consider what the French king said of his brother king James; How could he think to bring in popery with a protestant army? I am sure the bringing in of a French army must be for the destruction of the people of England, and the protestant religion, and will bring your people to go in wooden shoes. It is the example of this thing you are to consider. It was said at the destruction of Carthage, That the commonwealth was always to be minded. I think you ought always to be mindful for the preservation of England; and I believe he is guilty, and I am therefore for the bill.

Lord *Digby*. I shall trouble you but with a word or two. I suppose, as long as we act by the known rules of justice, and the laws of our land, we shall not need to fear any censure in our own kingdom, or any where else; but it is a very uncertain thing for gentlemen to be judges in the case of life and death, without any rule to walk by; a great many will not allow us any rule at all: I always took our rule to be the law of the land, and that even ourselves are bound by the laws our ancestors have made, 'till we think fit to repeal them; and I am confirmed in this case by one particular argument from the bill of treason that passed last sessions, in which there is a clause, That it should not extend to future parliaments. The only argument for exercising of this power, is the extraordinary case of this gentleman. When a gentleman speaks of the power of parliament, I take it to be the just power of parliament: I think a man may say, a parliament can't do what they can't justly do. But all gentlemen allow, that this power ought not to be exercised but in an extraordinary case wherein the government is nearly concerned. I believe very few but think, that if it had not been for the vindication of some particular gentlemen we never had had this matter before us; and then I will leave it to gentlemen to consider, if the government can be in so much danger if sir John Fenwick does escape?

Mr. *Brotherton*. Mr. Speaker, I perceive the question, Whether this bill shall be committed, arises very much upon a supposition that seems to be granted, That there is no other law to try this person by; and it hath been hinted, That before the statute of Edw. 6, one witness was sufficient: Now, if I shew you that here is a law in being, and hath continued for several hundred years, whereby a man may be tried, and that by one witness, I think it is something that hath not been spoke to yet.—Sir, I ground my reason and opinion upon the authority of the law, and upon the historians of all times, who agree in the thing, and come down to my lord Coke, which is printed by authority; and he is express, That where there is but one witness (he treats of what witnesses are necessary, and he tells you two witnesses were required by the common law of treason, if the person was tried by a jury;) but, says he, if there be but one witness in case of treason, he shall be tried before the constable and marshal. And in treating of the statute of Hen. 8, which does appoint how treason beyond sea shall be tried; says he, that is only where there are only two witnesses; but if there is but one witness, he shall be tried before the constable and marshal; because, says he, the statute of Hen. 8, does not take away that trial before the constable and marshal; and for that, sir, there are several precedents in this case, of persons that have been attainted by a court-marshal; and if the accuser was vanquished, he was to suffer the same judgment the defendant was if he was found guilty. I am upon a gentleman's life, and never was so before, and desire to be never so again; there have been several precedents, I say, in this case, and my lord Coke is express in the point; and I desire any gentlemen to shew me any law that hath repealed this.—In case of murder; suppose a man be wounded upon the land and die upon the sea, and I could shew several cases where the common law can't try a man by jury, but he shall be tried by the custom of merchants before the statute of Ed. 6. If a man was wounded in one country, and died in another, he could not be tried. That which I aim at is to shew you, that though the common law should fail, yet they need not come with a bill in this case. If two Englishmen beyond sea fight, and one kill the other, it can't be tried by the common law; How then shall it be tried? It must be tried by the court-marshal. It was sir John Amesley's case in Rich. 2d's time; and Wells's case, and lord Herbert's Case in H. 6th's time, who, there being but one witness, was accused before the constable and marshal.—[Mr. Brotherton was here interrupted by the great noise the house made upon the novelty of the argument, and did not go on further with it.]

Mr. *Paget*. Sir, I attended to the debate of this day, and have not hitherto troubled you myself, because I did expect to be better informed by this debate. I think the substance of the debate of this day hath been, not so much to shew us by what rule we are to go, as to shew us that we have no rule to go by but our judgments. Sir, I never had the honour to sit in parliament before this time, and therefore can't quote precedents of what hath been done in former parliaments; others have taken a great deal of pains to shew you, that it is in the discretion of gentlemen, and they are only to be satisfied in their consciences. I am not fond to hear myself speak, and therefore I hope I shall be favourably heard at this time; and I do think I have the more reason to speak at this time, from something that fell from a very honourable gentleman at the bar: If I do misrepeat him, I hope he will excuse me, for I do not do it with an ill design: But I think his words were to this effect; That he did not

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know, but if it was known in the country, that gentlemen did give their judgment against passing of this bill, it might hinder the election in future parliaments. Sir, since there seems to be so great stress upon our determination in this matter, I hope I may at this time shew you my reasons why I can't come up to agree in this bill; and I shall submit it to them, whether they will do me the honour to chuse me again? I must confess, I do think this is as nice a case as I can pretend to give my opinion in; and as it is so, I shall desire the best assurance of the truth of this matter, before I give my opinion for the passing of this bill.—Sir, you have had before you one evidence: I will admit him to be as much as a single evidence can be: As to the paper of Goodman's examination, I have heard that and other matters too, which I shall not repeat. But I do remember, that, in the debate of yesterday, it was not insisted on to be evidence: And if not so, I shall only take the matter as depending before you upon one evidence only. —Sir, it it true, I believe this house, as to its legislative proceeding, is not tied by the methods of inferior courts: But I hope I shall be excused, if in the methods of prosecution and conviction of offenders, after they have been prescribed by the wisdom of the parliament, I hope I shall be excused, if I believe this house can't take away any person's life upon less evidence than inferior courts could do.—And, sir, I shall not enter into any very long vindication of myself, and my zeal and willingness to serve the government; I never was employed in any other government; and I think my actions have been such that nobody can instance in any one thing that hath looked otherwise; and when I have said this, I shall trouble you no further about that: But there hath been so much stress laid upon this bill, that whosoever speaks against it, seems to speak against the government; because it is said, the passing of it is so necessary for the support of the government. And I was the more willing to offer you my reasons, because, as the nature of this debate has been, I can't satisfy myself where my judgment and opinion shall rest: For if it be so, that you are not tied to have as much evidence as inferior courts, and, as they say, one evidence is enough, and my judgment is to be guided by papers; then they, without any evidence, may be enough to satisfy: And if you take up with less evidence than inferior courts, I can't come to declare how little evidence may take away a man's life.—As to the prisoner, I know him not; but I think this bill is for all that he hath to lose, and is for all the best Englishman can lose upon the like occasion.—Sir, I shall be very tender in giving my opinion for the bill, unless it was very clear to me that it was reasonable. Truly, I have heard very little of the whole plot, or of this matter that hath been examined, or for which others have been executed: my life has been generally in the country, and I have not had the curiosity to buy the trials; and as this is the first person that hath been called before me, to give my judgment on, I hope I may be excused for taking this liberty, upon such evidence as appears before us, to tell you, I can't give my consent to this bill.

Sir *W. Lowther.* Sir, you have had a very long debate in this house, and long discourse from the bar; and though the counsel was directed that they should not dispute the privileges and authority of this house, yet, as far as my judgment carries me, their whole discourse was against it; And most of the gentlemen that have spoke against the bill, it hath been, because it hath not been adequate to the proceedings in Westminster-Hall, because there hath been but one witness. Sir, if there had been two witnesses, this house had not been troubled with it: It is a case of a very extraordinary nature, and so required an extraordinary proceeding.—It hath been questioned by some gentlemen, Whether one witness be sufficient in this case, or no? Which I wonder at, since a great many have been convicted upon his evidence, and every one of them has confessed; which shews it to be a notorious truth.—There is another inference they draw from the proceedings here: Because a great many of those precedents of attainders have been reversed, and those with notes of ignominy. If they did consider the times they were made in, and the times they were reversed in, there might be a great deal of cause for it: We find that, it was contrary factions that reversed them, and that makes it never the worse. And truly, sir, I do not know but where circumstances are so notorious, but they are tantamount to a second witness, as I have heard in Westminster-Hall, and in cases of life too. If a man be murdered, and two in a room, and one comes out with a bloody sword, the law does presume that man murdered him, though there is no particular evidence that he murdered him, but only this circumstance; and yet the man's life is concerned in that case. So that upon the whole, it appears to me that he is guilty, and, I think, nothing can be plainer. —There is another circumstance, That he fled for it; and that is a presumption of a man's guilt: For a man loses his goods, if he flies for felony.

Mr. *Harley.* It would be very unreasonable and impertinent to trouble you long after such a debate: I shall avoid repetition of what hath been suggested to you much better from other persons than would have been from me. I own it is a case of great concern, and it is my misfortune that I should ever sit upon a thing of this nature; but I will discharge my conscience always, and give what arguments occur to me, why I am against this bill. Gentlemen have been pleased in their arguments to enter upon the debate of your power and authority, and have made that a part of their argument: but I think, with submission, we need not dispute that at all: It is admitted, that there have been bills of attainder passed formerly, and your authority is not under dispute; for the

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legislative in all nations have a power lodged in them, for the safety of the whole.—But your proper enquiry is, Whether this is such a case as you ought to exercise this extraordinary power; *omne regnum sub graviore regno*: Though you have this absolute authority, yet it is to be executed by the rules of reason, and by the rules (for such there are) of eternal justice; and I look upon this as one that is inviolable, That no man can forfeit his life, in such a case as this is, without two witnesses. I must adhere to that, because I have heard nothing in this debate that can make me quit that maxim: And it is such an ancient land-mark, that I will never draw a curse upon me, and my posterity, for removing of it. I beg leave that I speak with this earnestness to you.—Gentlemen have been pleased to make it part of their arguments, The great danger the government is in if this bill does not succeed. I will not use many words; but I think that argument ought not to be taken in the gross, but to be examined, Whether this argument, of the hazard of the government, is of equal poize for you to break the eternal rules of justice? I won't quote the case before; every gentleman knows it, (though there was two witnesses in that case to put an innocent person to death) where it is urged, the Romans will come and take our state and nation: But with how much reason that was urged, every body knows; and how far the government is now in danger. Let us consider, Is this gentleman out of your power? Is the government in danger of a man that is your prisoner? Is he in open rebellion against you? If this law does not pass, if you have not your hands in his blood, is he not under the power of the law? Did not he tell you so himself? Every gentleman ought to have a zeal for the government, and I wish it was visible in every thing else; but if that be so, give us leave also to speak with zeal for our liberty, and ancient constitution. The argument is turned two ways: On one side you are told, that this probably may make him confess something; and by others, he is to be made an example of punishment. This is the first beginning of a bill of this nature: But the same reason that leads you to this, must lead you to all the rest: The same reason that is urged for this bill to make him confess, will lead you to bring in a bill to make him a good evidence: This every body must allow to be the consequence of it.—How does this bill come before you? It comes before you upon a villainous, scandalous aspersion of some great men; though I know them not all, yet I have a great value for them, and I would make their case my own: But if they were the nearest relations I had, I would be against this bill upon their account; and let any one examine the reason of it.—Sir, I won't run into precedents; but, only because it hath been told you, that the precedents were made in one reign by one faction, and then the attainders were reversed in another reign by another faction: There is one occurs to my mind, which hath been touched at, and is at least of instruction to me. There was a case in Ed. 3's time; there was the deposition of a king, a king barbarously murdered, and his son upon the throne; and there was the notoriety of the fact, for which a great man was attainted in his son's reign, and no different title; and four years after, a bill was brought in against the earl of March: And one of the articles against him was, that he had procured that attainder of that noble lord, under pretence of some letter, or paper, that was signed by him; which, if it was so, says the record, was no evidence.—I say this before gentlemen, to shew them how things have turned, and precedents that have been made very unanimously; but in bad times have been turned to shed the best blood in England. It grieves me to my soul to hear of Mr. Cornish, whose attainder you have reversed, to hear that quoted as a precedent in this house: It is not whether two witnesses be the rule of Westminster-hall, it is the rule of right reason; and it is a maxim in your law, make what law you will against the law of God, it is void: And this is the law of God, and right reason.—You must provide for the government; and when you can't do it by course of law, then armies must do it, when the courts are shut. I hope gentlemen will not put a hard construction upon what I have said; I have done it to discharge a good conscience.

Mr. *Chanc. of the Exch.* Sir, I am for the commitment of this bill, because in my conscience I think sir John Fenwick is guilty; and because I think the power of parliaments may interpose in this matter: And if they have such a power, I think they may justly exercise it in this case. Gentlemen say, they will not dispute the power of parliament; and yet in their arguments they tell us, we are not to proceed otherwise than according to the forms of inferior courts. And if the parliament is not to proceed without two witnesses in the case of treason, give me leave to say, there is no room left for a bill of attainder, unless you will take the business of inferior courts upon yourselves: And I am confident, several gentlemen, if there were two witnesses, would use it as an argument, what have you to do with it? Refer it to the ordinary courts of justice; and I am sure that would be very reasonable. But I do think that parliaments have that power, and they have always used it; and I believe it is for the advantage of your constitution. The inferior courts are to go by the letter of the law; and whoever can avoid that, is to escape punishment there; but the legislative is not to be dallied with: And if the offence be of that nature, that inferior courts can't reach it, they can go beyond all forms to preserve the government. This they have done, and upon that principle you sit here. Was it by the forms of common justice below, that you declared the throne to be vacant, and king William to be lawful king? Is it upon the ordinary rules of Westminster-hall, that his title does depend? No, it depends upon this maxim, that the parliament of England are intrusted for the whole,

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and may constitute a government for the preservation of the whole. And upon the same right principle that I gave my vote to declare him rightful and lawful king, by the same principles I declare his enemies to be traitors.—You are told here, it is according to the law of God and nature, that there must be two witnesses in cases of treason: I do not pretend much skill in other parts of the world, I think it is our particular happiness to have this way of trial: I think in any other part of the world, if he had dealt thus with the government, he would have had another manner of proceeding against him, than to be condemned by king, lords, and commons: But that is your constitution, but it does not hold in other parts of the world.—Some gentlemen lay the stress of their argument upon the ill consequence it may have in another reign: I would avoid ill consequences in another reign as much as I could, but our immediate care is the preserving of the present constitution.—But if gentlemen are apprehensive, that by such an example, if king James should return, others may be punished; if we may judge what he would do, by what he hath done, he would go another way to work; if he came to London, he would proceed as his party did at Dublin, and attaint all the protestants in one common bill; that is the precedent he hath set, and he will follow. And therefore, in order to prevent that, and in order to punish our enemies, and to preserve our constitution and prerogative of parliament in all points; and because I am convinced in my conscience he is guilty, I shall give my concurrence for commitment of this bill.

Col. *Granvile.* Sir, I would not presume to trouble you at this time of night, was the debate upon a less subject than it is; but since you are going to pronounce judgment in a case of life and death, and that this house is above any rules, and we have no precedent for it, but every gentleman is to find out private rules to walk by; the rule that I shall take to is, that I would deal with sir John Fenwick as I would have mankind to deal with me: if I was in sir John Fenwick's place, and were indicted of high-treason, and were not allowed any trial, nor the benefit of making my defence, according to the known laws of the land; I should think my blood unjustly spilt, let me be never so guilty.—The laws are what are set up for the defence of every man; and when once we break through them, whatever our end may be at that time, and though it may in some manner seem to justify us, because it is to come at an ill man; yet pray consider, the best of men may be come at as easily as the worst of men. And what makes me cautious is, that my hands are guiltless of blood yet, and I will take care how I begin to dip them in it. And that which will make me cautious in any case of this nature is, what I read in the story of the late time, that when once a set of people had begun to dip their hands in the blood of my lord Strafford, nothing would quiet them till they had stained their hands with royal blood. The laws are the common defence between the king and the people; but the king is safest when the laws are most strictly observed.—I shall not pretend to talk of your power, which hath no other bounds but your justice and discretion; and what you think so, will, I hope, meet with approbation abroad. And in this case I shall always be against what is called a trial to-day: But I do not think it any; for I do think we are an unfit court to determine this matter. We sit in so many capacities, it is hard to distinguish in what capacity we are here: Some are accused; it is hard to be accused, and to be a judge at the same time. I am sure I am as much concerned as if I was accused myself; and it is for my innocence and honour that I think myself bound to speak against this bill. For as no resentment shall make me do any thing that is unjust, so I fear nothing that he can say; and I will never go about to stop his evidence, by cramming a bill of attainder down his throat.—Besides, it is an unfit thing for any gentleman who is obliged to be of counsel for the king; it is hard for him to be so, and sit here as a judge: I think also to proceed in this manner, is a disrespectful thing to the king himself; for in this case you turn the throne of mercy into the seat of judgment. The king, who should have all the ways to ingratiate himself with his subjects; you make him, by this proceeding, to pronounce the sentence himself upon the life of a subject; and it is hard to offer a bill to the king in such a manner, by which you oblige him either to reject it (which was always looked upon as an hardship) or to pass sentence upon this gentleman, which perhaps his gracious temper and his mercy make him averse to.—Sir, it is too late to give you other arguments; you have heard a great many better than I can give: But I think this bill is unjust in itself, and dangerous in its consequence; and therefore I hope you will not commit it.

Sir *Herbert Crofts.* Sir, I did not think to trouble you in this debate, but only for the arguments that have been used by some that spake lately, who seem to lay a great load upon men, according as they give their vote in this matter, because it is in relation to the blood of a man. I have considered the point, I hope, with as much caution as any man within these walls, and hope to act with as strict a conscience as any man whatsoever; and shall be glad to be informed from those gentlemen, that have laid the stress so hard upon religion, how they can shew me, that I do not as strictly, as to all points of religion, give my vote for passing of this bill, as they would excuse themselves from it. I must agree with those gentlemen, that you are no ways bound or limited to the rules of Westminster-Hall; and therefore what was said upon that, I did not think worth taking notice of; but when we are told, we are bound up by the laws of nature and religion, and the law of God, in this matter, this touches me so nearly, that I must desire those gentlemen to shew me in scripture the law that they quote.—

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If it be the law of nature, and the law of God, that every man that dies must be convicted by two witnesses, as an honourable person observed, I wonder it is not observed by all Christian nations and governments, that they are not all governed by this law; if there be any direction from the law of God, that no man is to die for treason without two witnesses, but he may suffer for murder and felony with one witness. Now, I say, I must desire the gentleman that asserts it, that he would be pleased to shew me it in scripture, and I will be entirely of his opinion: But till I hear that very plainly proved, it is not within my reading or remembrance, and therefore I desire it may have no weight. And now I am up, I shall give my reasons, why I shall give my vote for this bill.—The reason that governs me, is the preservation of the government, and the common-wealth under which I live; and which I think I am in the station wherein I stand bound to preserve, by all the rules of justice imaginable. Now if your law hath bounded inferior courts, but hath not bounded you in this matter, though you have said inferior courts shall not determine and give judgment in such a case; yet, I think, you are not bound up so here: But if the matter be proved to my satisfaction, I may give my judgment according to the evidence that comes before me, without that restriction.—But, sir, this ought not to be done, it is said, but upon extraordinary occasions. You were told, some time since, of the case of the duke of Monmouth; but it was said, that he was attainted because he was in arms, and could not be come at otherwise: But I think this is a parallel case to that, if not much stronger: for here is a person that hath been accused, and fully proved to have been in rebellion, and in treasonable practices with your enemies, to bring an invasion upon you, and to subvert your government; and though he hath not been proved to have been in that single act of the assassination, yet there is such a correspondency between one and the other, that I do look upon him as equally guilty of both. Therefore this having been so fully proved, and the person that stands accused being out of the reach of the common course of the law; what remedy have you, but to fly to your legislative power, to attaint him upon the grounds and allegations of your bill, that one witness is withdrawn? And I am very well satisfied, and I think we may presume it is by his own, or his friends encouragement and procurement. And I do take this to be as reasonable a ground for your bill, as any thing in the other case; and I know not what is an extraordinary case, if this be not one: Is it not an extraordinary case, for a plot to be laid for the total subversion of this constitution, and our religion for ever, and we can't come at it to punish it another way? But it hath been said, the safety of the government does not depend upon him: If we acquit him, we are to acquit every one alike: I hope the government does not depend upon him alone; but if you clear him, there is the same right to clear any criminal whatsoever. Sir, since I am brought up upon giving my judgment in this matter, (though I come as unwillingly as any body to it) I must go according to my conscience; and till I can see something of the law of God, that has been hinted at, made out, I must go according to the law of my reason; and that is, that I must be for the bill.

Lord *Norreys.* I will not pretend to tell you what the authority of this house is, it is what they please to make it; but I am sure they will ground it upon good reason; but I think the reason chiefly given for the commitment of this bill, leaves you a latitude to do what you please, and give no reason at all; for it is only to say, I am convinced in my conscience this man is guilty; no matter upon what proof, no matter whether any proof or not; you may believe it from his life and conversation, and the company he keeps, or from his interest; and that may be argument enough to find a man guilty. But till I know a reason better grounded than this, I cannot be for the commitment of this bill.

Sir *Christ. Musgrave.* I am sure at this time of night I am unfit to speak in so great a matter: I must confess I should not have troubled you, if it had not been in the case of blood.—You have had a great debate before you of the power of parliaments, and that hath been sufficiently argued; and I have not learning enough to give you any precedents that have not been already quoted: But every body does agree in this, that what power you have of this kind, is not to be exercised but upon extraordinary occasions. Now I would be glad to know, what this extraordinary occasion is?—Every body allows, That treason is the greatest crime a man can be guilty of; and the charge of this gentleman is high-treason: But therefore, in this case, must you exercise this authority? Pray, wherein does this case differ from any other case of high-treason, that any other person will be practising against the government? All the difference I can make of it, consists in two points; the one is, That he hath prevaricated with the government; and the other, That gentlemen say he hath been a means of procrastinating his trial, in which time an evidence hath made his escape. I will allow you, that it is a very great crime for any one to asperse so great men as he hath done; but I would be glad to know, whether there being such an ingredient, it be sufficient to attaint him upon high-treason upon that account.—Then as to that of a witness being gone, gentlemen have said, they are apt to believe, and there is great presumption that he hath been the occasion of this witness being gone. Is that an ingredient sufficient, though at present it hath not been proved to you? But if it had been proved, I should not however think that is treason. Then if this be the only difference between this gentleman and any other person that shall be practising to subvert the government, I would know, if there be but

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one witness against any man, for conspiring against the king, if they may not have recourse to this precedent, to proceed against him by a bill of attainder? For the argument is, Whosoever is endeavouring to subvert the government, provided there be but one witness, you are obliged, by virtue of your legislative power, to bring a bill of attainder against him. And what then? Of what use is the great care and wisdom of your ancestors, and yourselves, that where a crime is so great, and the punishment so great, there should be two witnesses?—I was mightily surprized to hear gentlemen tell you, that two witnesses is a form in your law, and a form in inferior courts. I never could believe that was a form; for according to your law, no man shall be declared guilty of treason, unless there be two witnesses against him; so that it gives, in a manner, a determination to the crime; that I take to be the case.—A gentleman told you That he was fully satisfied by the proof, that this gentleman is guilty: But how can a man satisfy his own conscience, to condemn any man by a law that is subsequent to the fact? For that is the case; and pray see the danger of precedents: It now will appear upon your journals, that you have caused to be read a deposition of a person that was absent, taken before a justice of peace, when the person accused had no opportunity to interrogate him; and likewise, that you have heard a witness as to what a man swore in the trial of another man: All this will appear upon your Books.—And truly, I would be glad to know, if another age may not be apt to think, that you took these to make good the defect of another witness; and then I must appeal to you, if you have not admitted of a testimony, which according to no law is admitted.—They say you are not tied to the rules of Westminster-Hall, nor their forms. Is there any law in being, that says, a judge may hear a witness as to what was sworn upon the trial of another person, to condemn him that was not party to that trial? If there be no such law, then the rule is founded upon justice and common right, that nothing shall be brought against a man when a man was not a party when the oath was made, and he had no opportunity to examine him.—I thought it my duty to tell you, That when you have made this precedent, if any person shall be accused of treason but by one witness, there will be the same reason to proceed thus against him.

Then (being a little before eleven a-clock at night) the question was put,

Whether the bill should be committed? and the house divided: Ayes, 182. Noes, 128. So it passed in the affirmative, and the bill was committed to a committee of the whole house.

Nov. 25. The house resolved into a committee of the whole house, upon the said Bill, and several words being offered as an Amendment to the said Bill, to import sir John Fenwick's being Guilty; at last the words that were agreed on, were these, 'Of which Treason 'the said sir John Fenwick is Guilty:' It was also proposed to the consideration of the said committee, Whether the lords spiritual should stand in the enacting part? But upon looking into the several acts of attainder, it appeared they were unconcerned in all those acts of attainder, in the enacting part; and so the committee was satisfied in that point, and they were left to stand in the bill by general consent; and the bill was ordered to be reported to the house; and afterwards, upon the report, the house agreed with the committee in the aforesaid amendment of the words, importing sir John Fenwick's being guilty.

Debate on the Third Reading of the Bill.] Nov. 25. The said bill against sir John Fenwick was read the third time.

Mr. *Methwen.* Mr. Speaker, I have not troubled you in any of this long debate, and do it unwillingly now: but I do think it every man's duty, in a case of this great importance, freely to own his opinion, and give his reasons for it. The greatest part of the debate hath run upon two things; the inconveniency of bills of attainder, and the having them too frequent; that it is necessary to have them sometimes, that any person might not think they are not out of reach, if they could evade the laws that were made to protect the people.—I think, in general, that this bill, as every other, ought to have its fate upon the particular circumstances before you; and whoever gives his affirmative to this bill, ought to be convinced, that sir J. F. is guilty of high treason; and also, that there are extraordinary reasons why the nation does prosecute him in so extraordinary manner; and I do think one of these is not sufficient alone. If between the Indictment and Arraignment, or Trial, Goodman should have died, and there had been no other reason for attainting sir J. F. only the defect of his evidence, I should not have thought it a sufficient reason, though we should have had an opportunity of being informed of his particular evidence, and believed him guilty; and if sir J. F. does not appear guilty, I do not think any reason of state, though he hath prevaricated, and behaved himself to the dissatisfaction of every body; therefore, I think, there must be both these.—You have heard the evidence; I shall not repeat it, but rather come to these things that distinguish sir J. F.'s case; only thus, you have received the evidence against sir J. F. and given him liberty to make his defence, and have fully heard him; which I think hath altered the reason of a great many precedents cited from my lord Coke, and other authors.—That which distinguishes this case is, the great danger the nation was in from this conspiracy, and the sense the nation hath had of it; and I find, by the general opinion of all persons, this danger is not at an end. There seems likewise to be an opinion as general, That sir J. F. could have contributed to your safety by a discovery.—The next circumstance, That sir J. F. knowing of this, and the expectation the nation had from him, for that he could have contributed to your safety, hath made use of that to put off his trial; and at last, has made

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such a paper, as does shew an inclination to do you all the prejudice he can, and tended to the creating of new dangers; and by this means sir J. F. against whom there was two witnesses when he was indicted, hath delayed his trial, so that now there is but one; and there is a violent presumption, that this person is withdrawn by the practice of sir J. F.'s friends.—There remains yet with me as great a consideration as any of these: the public resentment of the nation for such his behaviour, is the only means his practice has left you; and it seems necessary for your safety, to come the next best way to what he could have done. Against the Evidence that hath been given, there have been great doubts raised; not so much whether it be such evidence as may incline us to believe him to be guilty; but whether it be such as you should hear in the capacity you are in; and whether, after it is found, such as it is, that is not such as would convict him upon another trial. Whether you ought to credit it, and that should influence you to give your vote for this bill of attainder; this is a doubt that I find weighs generally with them that differ from me in opinion about this bill; and therefore I desire leave to speak to that particular.—It is said, That you are trying of sir J. F.; that you are judges, and that you are both judges and jury; and that you are obliged to proceed according to the same rule, though not the methods, of Westminster-hall; *secundum allegata et probata.*—But the state of the matter, as it appears to me, is, That you are here in your legislative power, making a new law for the attainting of sir J. F.; and for exempting his particular case, and trying of it, (if you will use that word, though improperly); in which case the methods differ from what the law requires in other cases; for this is never to be a law for any other afterwards. Methinks this being the state of the case, it quite puts us out of the method of trials, and all the laws that are for limiting rules for evidence at Trials in Westminster-hall, and other judicatures; for it must be agreed, the same rule of evidence must be observed in other places as well as Westminster-hall, I mean in Impeachments, and it has always been so taken. —This notion of two witnesses has so much gained upon some gentlemen, that we have had some gentlemen say, That this is required by the law of nature, the universal law of nature, nay, by the law of God. And I think, if it was so, there would be no doubt but it will oblige us.—But therefore I go to the bottom of the matter: that any man deserves to be punished, is because he is criminal: that this or that man deserves it, is because he is guilty of a crime, let his crime be made evident any way whatsoever; for whatsoever makes the truth evident, is and is accounted in all laws to be evidence.—Now as to the rules for examining any person, whether he is guilty or not, and the evidence that is allowed in all nations, no two nations agree in the same evidence for the trial of criminals, nor in the manner of giving the evidence against them. Your trials differ from all other nations; not only that you are tried by a jury, which is particular to you; but that the witnesses are to be produced face to face before the offender; and you have made laws, that there shall be two witnesses in cases of high treason; and herein you are the envy of all other nations.—Sir, the evidence that is to be given against criminals, differs in the same nation where the offences differ: there is a difference between the evidence that will convict a man of felony, and the evidence that is to convict a man of treason: and the evidence to convict a man of the same crime, hath been different in the same nation, according to the reason of the law. No doubt, by the common law of England, that evidence was sufficient, which was sufficient to incline the jury to believe the person guilty. This before the statute of Edward 6, though that was made upon great reason, and appears to be for the public good, by the general approbation it hath received; but I don't think in your proceedings here, you are bound by it—But, sir, it is said, Shall we that are the supreme authority (as we are part of it) go upon less evidence to satisfy ourselves of sir John Fenwick's guilt, than the other courts? and shall we resort to this extraordinary way in this case?—Truly, if it did shake the manner of trials below, I should be very unwilling to do it; but I do take it clearly, that it cannot: but on the contrary, I think there is no stronger argument for your resorting to this extraordinary way, like to that of the caution which your law hath provided for the innocency of all persons. For if we consider all those laws that have been made, it is plain it must be in the view of our ancestors, that criminals might not escape: and the laws are made for your ordinary trials, and for those things that happen usually; and your government hath this advantage, that they can keep to that which others cannot: for in a very wise government (as was observed by a person that sat in this house the last time this was debated) the ways of punishing crimes of this nature are extraordinary, when persons are condemned: they are not only unheard, but they are condemned before they are accused; and that is thought necessary there, which will not be endured here: and yet that government hath continued so long, and no endeavours have been to alter it, though so many noble families have suffered by it, because they are convinced, as to their constitution, it is necessary.—The next argument is from the precedent we are about to make; and whatever the other precedents have been, what you do now will be a precedent for you and your posterity; and whilst that is used to make you cautious, and tends to make you consider well, whether it is according to the duty to your country to pass this vote (which no doubt is the only question before you), it is a good argument.—Sir, if this precedent shall appear to posterity to be a precedent concerning an innocent man, or a person whose guilt was doubted of, or one whose guilt did not appear, and this bill should be carried by a prevailing party, I

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do agree it was a very ill precedent: but if the case be, that this precedent will appear to posterity, upon the truth of the thing, to be a precedent made of a man notoriously guilty; of a man that had deserved this extraordinary way of proceeding, this extraordinary resentment of the nation; and that nothing could have hindered this man from the common justice of the nation, but his having endeavoured to elude it in this matter; and if it appears that you would not be put off so, but made an example of this man, I shall not be sorry it should appear to posterity; but I believe posterity will (as I think they ought) thank you for it.—Sir, I do say for my own particular, while I am innocent, I should not think my life in danger to be judged by 400 English gentlemen, and the peerage of England, with the royal assent; and when I reflect, I can't be of opinion, that the government could have procured a parliament to have passed a bill of attainder against my lord Russel, or Mr. Cornish, or Mr. Colledge, I don't think all the power of the government could have prevailed with the parliament to have done it: and here I see that a great many gentlemen have opposed every step of this bill, for fear of making an ill precedent; yet those gentlemen do believe in their own consciences, that he is guilty; and I can't think that any person can be in danger by such a bill, when gentlemen oppose this bill only upon the prudential part, though they still confess him to be guilty.—All the conclusion I make to myself is, That I do believe, I am convinced in my conscience (which I think is sufficient, when I act in the capacity I now do) that sir J. F. is guilty: but there are reasons so extraordinary to support this bill of attainder, that I do not see how any person, that is so convinced, can refuse to give his affirmative to this bill.

Sir *Godfrey Copley.* Sir, I am very sensible a great deal hath been said upon this subject; but I think there is something in duty incumbent upon every man, especially upon me, who can't concur with the general sense of the house, to give my reasons for my disagreement; and I will make no use of arguments but such as I can't answer myself. A great deal hath been said upon this debate by gentlemen learned in the law: and many of these, though they have said they would not speak as to the power of parliaments, yet the greatest part of their arguments have touched upon your method of proceedings, and to shew you how they interfere with the rules of Westminster-hall; so great is the force of custom and education: but I acknowledge some have brought us arguments quite of another strain.—This is a matter of so extraordinary importance, that I think it proper to consider what rules we have to go by; but I take the punishment of offenders and criminals, to be the necessary support of all governments whatsoever, without which no government can continue; but all societies of men have supposed to themselves some rules, whereby it may be known, whether offenders are guilty or no.—It is the custom of our nation, to have two positive witnesses to prove treason. Now it may be imagined, that I make use of this as an argument, that we are tied up to these rules: No, I am not of that opinion, that we are bound by the rules of any society whatsoever. The parliament have power to abrogate all laws that they have passed, if they think good; and so certainly cannot be tied up by any rules now in being. But, sir, there are the eternal rules of equity, and justice, and right reason, and conscience; and these, I think, are unalterable, and never to be swerved from; and therefore I shall take the liberty to see how far agreeable our proceedings are to these rules.—Sir, I do look upon it, that it is a rule agreeable to what I speak of, that no man shall be accused by he knows not whom; and that no man shall be accused, but that the evidence against him, and he, should be confronted, and brought face to face.—I am one of those that believe sir J. F. to be guilty; and there is clear proof of it by one witness; and you have added to this an indictment that is found: but I must needs own, that I think that to be so far from giving any addition or strength to the evidence, that when that is brought in, I look upon the scales to be lighter than they were before: for if any record or writing that is sworn to behind a man's back, shall be brought here to supply another part of the evidence: (and if not so, why is it brought here?) and if that be to be interpreted to make up a part of the evidence, I do, by parallel reason, argue, that the like may make up the whole at one time or another; and may be so far made use of, that any profligate knave, that gives information before a justice of peace, or a secretary of state, this may rise against any man whatsoever when he is obnoxious to the government; or a person may be accused for his good service in this reign, and this may be set up against him, and he run the hazard of his life.—Then, sir, as to the necessity of this matter, I must confess, that those that brought this matter before us, are much wiser than I: and therefore I will not examine what reason they had to do it: but it is so little agreeable to me, I wish it had not come here. But is it to be supposed, that your government is in hazard of any man that is fast in Newgate? Can any man think, that sir John Fenwick can do any thing in his condition to hazard it? Can you expect that a man that hath been six months in prison, and nobody came at him, that he may make such a discovery as may be worth your while? but suppose you had a man of invention and practice, what a spur do you put to it? May not a man of parts, when he hath no other way to save himself, may not he frame such a plot, as may make the best subjects in England tremble?—Why then, sir, I do say, by this you are in a very dangerous way to suffer by the invention of any man: and suppose he should be so ignorant, as to know nothing; or so great a blockhead, to be able to invent nothing, would you hang him either for ignorance or insufficiency: I must confess, I dread the consequence of this for the nation in general, and for our

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posterity. It is not sir John Fenwick's life I argue for: I do not think it wrth a debate in this house, nor the consideration of so great an assembly; but I do say, if this method of proceeding be warranted by an English parliament, there is an end to the defence of any man living, be he never so innocent.—Sir, I remember I heard it mentioned on the other side of the way, by an honourable person, who never lets any argument want its weight, That king James attainted a great number of persons in a catalogue, in a lump. Sir, I am not afraid of what arbitrary princes do, nor an Irish parliament; but I am afraid of what shall be done here: I am concerned for the honour of your proceedings, that it may not be a precedent to a future parliament in an ill reign, which I am satisfied you would not do. I had some other thoughts, which I cannot recollect, &c.

Mr. *Foley* (the Speaker's son). Sir, the worthy gentleman that spake first upon this debate, calls me up: He said, that he thought in this matter, every one ought to give the reasons of his opinion: and in giving the reasons of my opinion, I do solemnly protest, I do it with the same sincerity as I would do, if I was upon my oath, and of a jury.—The worthy gentleman said, That if there could be any danger from this precedent, that an innocent man might lose his life, he would not be for it. I desire that he would consider, whether there be almost any instances of any innocent men that have lost their lives, but what has proceeded from precedents that have begun upon guilty men. The same gentleman told you, that if we did not believe sir J. F. to be guilty, no other consideration ought to move us to be for this bill:—Now the reason I am against this bill is, because it does not appear to me, from the evidence that hath been given at the bar, that sir J. F. is guilty. And I do think, that which is not legal evidence is no evidence; and I do think, that all the lawyers that have spoke in this matter, have allowed it to be no legal evidence. And I desire gentlemen will consider, if it has not been thought reasonable, that men should be convicted upon such evidence, why now it should be said to be necessary? I think the saying of my lord Strafford upon his trial was this: if the pilot was to direct a ship in a dangerous sea, and there was no buoy to direct his course, if he there split his ship, it was excusable; but if there was a buoy up, then he was accountable for it.—Now, comparing our government to the sea, there hath been many rocks and sands, and many men have lost their lives by them: but the treason bill seems to be set as a buoy to avoid that mischief for the future. Now if we split upon these rocks, I shall think we are but ill pilots.—Upon a former debate we were told, we are not tied up to the rules of Westminster-hall, and it was sufficient to justify a man in giving his vote for this bill, that he was satisfied that sir J. F. was guilty: see the consequence of that, in things that I have as much believed as I do this, I have found myself mistaken.—When a jury acts according to legal evidence, that they have no reason to mistrust: When a jury finds according to legal evidence, they are in no manner of blame: and if this man be innocent, when you have taken away his life, and his estate, and ruined his family, all that you have to say for it is, That you have acted according to the best of your own understandings, guided by your own private opinion.—Were this the Case of sir J. F. only, and I not to give my vote, I reckon him so despicable, and because I believe him to be a traitor, and I think the worse of him for the part he hath acted since he was in custody, I should not concern myself about it. But when I speak against this bill, I speak on the behalf of all those that may hereafter suffer by such a precedent as this. Those precedents that have been urged, don't come near this point. And though the power of the parliament is above that of other courts, yet there hath been no precedent that comes up to this, That we should pass a bill to attaint sir J. F. because he will not give evidence, or there is no evidence against him. If sir J. F. be to be hanged, because there is but one evidence against him, any man in the world may; and then I think every man's life depends upon it, whether this house do like him or not. Consider what a reverse of opinion this will be, to what former parliaments have given in cases of the like nature. I think if this bill does pass, every man's life will be as precarious as his election.—We have been told, how much danger the government will be in, if this bill does not pass. I have as much zeal for this government as any man; but all the government is concerned, is, That a man that you think a traitor should live. And I do think the government is no more concerned in this life, than in the living of any Jacobite in England. But on the other hand, I think the lives and liberties of the subjects of England are concerned; and, by this bill, you will make all their lives and liberties precarious.—I am not for bringing the blood of sir J. F. upon me, or my posterity; nor can I consent for to make a precedent, that a man may be hanged without evidence.

Lord *Cutts*. The worthy member that spake last but one, told you, That he thought the life of sir J. F. was not worth the consideration of this assembly: I do differ from him in that. If the Scripture tells us, That the most insignificant creature does not fall without God Almighty's consideration, I think the life of a gentleman may be thought worth ours. The worthy gentleman that spake last, told us, That he did believe in his conscience sir J. F. to be guilty: but because he hath found himself mistaken formerly, when he believed things with the same appearing certainty, therefore he may be mistaken now. I hope gentlemen will not press an argument upon our judgments, from precedents that are only mistakes: I do agree, that any man may be mistaken in a thing which at that time he thinks himself most certain of: but till that mistake appears, I say, it ought not to make him doubt of any thing that he does clearly and distinctly perceive: if otherwise, there is an

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end of all religion and law; and it shakes the foundation of the most certain belief a man can entertain.—As it appears to me, some gentlemen seem to lay a greater stress on some things than they deserve, and are not pleased to answer some arguments; and therefore I desire leave to speak to two or three points in short. I shall not say any thing of the authority of parliaments, it speaks itself; nor of the different consideration of our proceedings, and that of inferior courts; that seems to be agreed: but I shall apply myself particularly to mention some things upon sir J. F.'s Case, and in that take care, as near as I can, not to trouble you with any thing I have said upon this subject.—I can't but observe, That every gentleman that speaks against this bill, begins with an introduction, that he believes him criminal; which does somewhat astonish me: I hope they will explain themselves a little. But to the point: as to sir J. F.'s case, I did take the liberty in a former debate to observe, That it was not only a conspiracy against the lawful king of England, and had such parts in it, but also in bringing in a tyrannical and foreign power upon you. But there is one consideration I did not mention then, because I thought what I said carried so great weight, it needed it not: I do say, not only as a Christian, as an Englishman, and as a subject of this government, against which he hath committed a crime of the highest nature; but I will say, as a man of honour, that he hath acted contrary to the rules of honour. I think sir J. F. had made a much better figure, if he had appeared in arms in Flanders, where he might have charged this prince at the head of his troops, than basely have contrived his death in this manner.—Sir, I have only one thing more that I desire to speak to; for what I say is more for my own information than to desire any man's opinion further than he agrees with it: I say, most gentlemen have likewise owned, That if they thought this an extraordinary case, they would be for this bill. I do say, as it appears to me, I do think, if ever there was an extraordinary case, this is one; and if ever any government was in danger, this is, or may be, upon your resolution to-day. A great deal of stress hath been laid upon this argument, That sir J. F. is in hold: I take that to be nothing, for they keep a combination together still. It is by rewards and punishments that all governments are supported. Robberies, that were so common in France, that you could not walk after it was dark, by punishments they have been brought to that, that you may ride from one end of it to another with a purse of gold in your hand. And if you think it a trifling matter, that wicked men that have such inclinations should escape, I don't doubt but you may have plots every day.—I don't doubt but this gentleman knows a great deal that he hath never laid before you. I would not be thought to press it as an argument that he should be condemned, because he won't confess; but I will be bold to say, if he does know of a great many persons that have been concerned in this business; if he knows of a rising that was designed, when this conspiracy was to be executed (and it may be executed still, if things shall be ripe for it); I say, though you keep him in hold, it will be an encouragement to them to go in the cabals, in buying of arms, &c. I think the matter before you is no less than the fate of England, and the fate of Europe, and of all your posterity; I am sure it is: and give me leave to say to you one thing that is matter of fact, there are those stories insinuated abroad, and those matters of fact asserted, with relation to a conspiracy, and reviling this house, that are not fit for me to repeat. But your enemies last year, before the breaking out of this conspiracy, had the same sort of meetings, and the same sort of discourse, as they have now. I will end with protesting to you, that I deal with sir J. F. with the same candour and honour, as I shall always desire to be dealt with myself.

Sir *Godfrey Copley.* That noble lord misunderstood what I said, as to the small value I put upon sir J. F.; I did say, that sir J. F. considered in his single capacity, I did not think it was worth the while of this house to act in their legislative capacity upon him.

Sir *Ch. Cartwright.* I think this bill is of very great moment, and ought well to be considered before it passes; for when it is passed, it will be too late to retrieve the ill consequence which may attend it: there is so much roguery in the world, I think it hard matter to arrive at the truth. It is not long ago there was a Plot contrived by one Young, and others, against the bishop of Rochester; and so cunningly contrived, That if a bill of attainder had been brought in against the bishop of Rochester, before the truth had been discovered, I do not know what might have been the consequence of it. I suppose nobody questions the truth of this plot; but God forbid that every body that hath been named for it should be guilty. It may be true, that there was such a meeting that sir J. F. is accused of being at, and yet sir J. F. might not be there; and I do not think it sufficiently proved, and therefore I cannot give my consent to this bill.

Mr. *Manley.* Sir, I have, as well as I could, attended to this debate in this matter; and I did not trouble you in the last debate, because I was willing to take all the opportunities I could to inform myself. It is to me an extraordinary thing, not only for the matter, but manner of your proceedings; which, considering all circumstances, appears to me to be not only not common, but unprecedented; and as we are all in this matter judges, so I hope we shall apply ourselves to consider of it with that temper, as may lead us to give a right judgment. And if I had never so great obligations upon me, and dependencies, though from the crown, I would lay them by, at least they should not influence my judgment in this matter. We are to pass judgment in a matter of life and death upon this person; and it is urged we should do it, because the common course of justice will not reach him for the

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crime objected against him, which is High-Treason; and the species of that Treason, as it is laid in the indictment, is, &c.—Sir, the evidence that hath been given to support it, hath been the affirmation of a single witness at the bar; indeed other things have been alledged in the bill; but, as hath been said in Westminster-Hall upon another occasion, they look like pepper and salt to me; for in themselves they are not crimes (I speak with submission to your judgments), at least to bear company with an accusation of High-Treason.—As to the Evidence; first, capt. Porter tells you, That sir J. F. was at a meeting at the King's-head, and at Mrs. Mountjoy's afterwards, when there were treasonable discourses amongst them, and Charnock was directed to go into France; but the end of that is not proved; for the witness that told you of those meetings, did not tell you, as I observed, that Charnock did go to France; and what he said upon other occasions, is no evidence to me. And though we are not tied up to the rules of Westminster-Hall, I am so young a member, I know not what methods are observed in parliament, that I may in some measure make them a rule to me.—The law of England requires two witnesses upon the greatest reason; and it is not only the policy of England, but the general consent (in this case) of the whole world, and it is grounded upon the law of God. It was objected by an honourable gentleman the other day, to a gentleman, that he said the law of God required two witnesses. A gentleman who is very near allied to one, from whom he might have early informed himself, made us a challenge, to shew him where it was to be found: if he will look into Numbers and Deuteronomy, there are three particular texts very plain in it. The reason of this is illustrated in the story of Susannah; her safety depended upon it: and the Jews, when they prosecuted our Saviour, though they wanted no malice, nor nothing to animate them to put him to death, yet St. Matthew tell us, at last there was two witnesses found against him: and this being the law of the land, and the law of God, must be my rule; I must have this matter proved against sir J. F. as full as the law of the land, and the law of God requires. The other evidence brought to maintain this bill, is what is sworn by Goodman before a justice of peace, and the account of the evidence given by Goodman to the Grand-Jury, which, I must confess, I declare I am very far from being convinced ought to have weight with us: but, I think, they must lay a great weight upon it, who give their vote for this Bill; or otherwise they must give their vote upon the testimony of one witness.—The reason for this extraordinary proceeding is, it is urged, There is a necessity for it; the plot will be lost else, say some; sir J. F. says others, will escape else. As for the plot, I wish to God there was no such thing; but it is probable the best way of ending this plot would be, if his majesty in his wisdom thought fit to interpose with his mercy and grace at this time; and better than for the legislative power, in an extraordinary manner, to take off a person against whom there is not a legal evidence. Gentlemen say, they are convinced in their consciences; but I will appeal to their consciences, whether there be legal proof against him; and shall we then interpose, in an extraordinary manner, to take away his life?—No man pretends to answer, but that this proceeding may be dangerous to posterity: if he had any security this might be done without that danger, it might be some encouragement to gentlemen to come into it, but since it may be dangerous, are not we, who are entrusted by the people, to have an equal care for the liberty of the people? We are to take care of his majesty's life and government; and the reason is, because upon him, and his government, the public safety does depend. It is *Salus Populi*, is the great reason that the law takes such care of the king; and as we are to do nothing to the detriment of the king, so we are to do nothing for the king that may be of detriment to the people.—An honourable lord hath been pleased to say, We are not yet out of danger: I am sorry to hear it, and could not think it, when so noble a lord is so near the king, and hath so great a share in taking care of the public safety. But sure, nothing can happen from this person; there hath been care taken he should have no conversation with any body: If I thought there was a hazard to the government, or to the king, and no way to secure us, but taking away this gentleman's life; such a reason as that would make me go counter to my own reason and judgment. But I cannot be of opinion, that a man of sir John Fenwick's size, who in his best circumstances, indeed, is a gentleman by birth, and hath a gentleman's fortune, but is now in a great measure without his estate; so his fortune cannot do any hurt, and his alliance, I suppose, is not considerable enough to do any neither.—Then as his circumstances do not make him so considerable as to do us any hurt, let us take care, that we do not in any case, by his blood, wound ourselves. Gentlemen lay but little stress upon the dangerousness of the precedent: I do lay more; and it is chiefly upon that reason I cannot come up to be for this bill. I would not that so good a parliament should lay the foundation of any, by which, in after-ages, the best men in England may suffer. It is said, an ill parliament will not want a precedent but will make use of their power; but they will fall sooner into, if led by a good parliament.—Sir, this is a matter I would not have presumed to have troubled you in: for I cannot think any thing I can say, will have any weight with any one that is not of my opinion: but as an Englishman, as I have the honour to be of this house, when a thing of this nature comes before us, and I am to give my opinion as a judge in it, I was willing to give my reasons for my opinion. I think this bill is unprecedented; and you will give me leave to say, it appears

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to me to be unreasonable; I think it contrary to the fundamental rules of reason and justice; I doubt it may be dangerous to our constitution; and I fear future ages may have reason to repent what we do; and therefore I am against this bill, and hope it will not pass.

Sir *Wm. Strickland.* Sir, I do assure you, I shall not in any thing of this bill, or any thing else, run counter to my conscience or judgment; but I do think, and I think few deny it, I do think in my conscience that sir J. F. is guilty; and thinking so, I ought to condemn him. I do think, if we should spare this gentleman for want of form, as they call it, now we are in our legislative capacity, and there should be any ill effects of it; and other people, by thinking they might avoid punishment by the forms of Westminster-Hall, should have the like imagination against his majesty, and they should take effect; I should think myself in a great measure guilty of that misfortune. I think the kingdom is concerned, and the king's preservation, in this bill; and I hope you will pass it.

Mr. *Dolben.* I am against passing of this Bill; and I shall, with as much brevity as I can, lay before you my reasons why I am against it; and probably I should not have troubled the house with them, but that I think it necessary to justify my opinion in a case of this importance. I do admit that the fact that is charged upon sir J. F. is an overt-act of High-Treason, within the 25th of Edw. 3, though I must take leave to say, that a judgment upon a case, at least as strong as this, has lately been very much arraigned and controverted: but it is not my intent to dispute the nature of this fact; for I am persuaded, that to consult how to procure an invasion of this kingdom with foreign forces, is an overt-act of compassing the death of the king; and I do think this charge does amount to such an overt-act. But I beg leave to reflect, how far overt-acts of this nature, which fall directly within any species of Treason mentioned in the 25th of Edw. 3, how far such Treasons are cognizable in parliament, and within the intention of that statute; indeed, that they are cognizable by the absolute power of parliament, there is no doubt. Sir, that the statute doth first enumerate several species or branches of facts, which it says shall be adjudged Treason, that is, in the courts of judicature; and then afterwards it goes on, and says, 'If any 'other case supposed Treason, not specified 'in that act, doth happen before any justice, 'the justices shall tarry without any going to 'judgment of the Treason till the cause be 'shewed and declared before the king and his 'parliament, whether it ought to be judged 'Treason or Felony.' Now, Sir, with submission, this is a great argument, that the intention of those that made this law was, that these Treasons, which were directly under any of these particulars enumerated by the statute, that they should be left, and be appropriated to the decision of the inferior courts; but that facts of another nature, which did not come under the particulars enumerated in the act, as extraordinary offences, and misbehaviour of magistrates and great men, and the like; these indeed should be reversed for the consideration and judgment of the parliament, who are only a match for powerful offenders, whom the common justice of the kingdom cannot grapple with. And as this seems to be the intention of the makers of the act, so I think the instances generally have been pursuant to that institution; for I know of but one single instance of any one that ever was attainted by bill for any Treason that is contained under any species enumerated in the 25th Edw. 3. It is true, where persons have been out of the reach of the law, in open rebellion, or fled from justice; in these cases the parliament have thought fit to attaint them; as in the case of sir John Mortimer, and others who made an escape out of the Tower; and the case of the regicides, and likewise the case of the duke of Monmouth, who was in open rebellion: but I say, that I have not found in my reading, upon the best search I could make, where any that were in custody were attainted by bill for any Treason within 25 Edw. 3, and that was the case of Ferham; but I think there is no precedent of any man, who is not only in custody, but hath been indicted, arraigned, and issue joined, and he hath put himself upon his country for his trial: and the person accused was to be convicted, or acquitted, by the verdict of twelve men; I never heard of any instance, when after all this proceeding a person was taken off from his trial, and debarred the benefit of the judgment of his peers, and the benefit of his challengers, and destroyed, and cut off extrajudicially by an act made on purpose, *ex post facto:* I never met with any instance like it, unless it be that of my lord Strafford; and I believe nobody will cite that, if they reflect upon the preamble of the act for reversing his attainder: for in the preamble, it is said, That the turbulent party did attempt the procuring of that act, on purpose to condemn him. This shews the opinion of our predecessors in relation to proceedings of this sort; they esteem it contrary to the fundamental rules of justice and right, which parliaments, as well as other courts, must be governed by. Roger Mortimer was attainted, and afterwards his attainder was reversed; and the reason declared, because he was attainted against the good laws and customs of the kingdom. Ferham's, that I mentioned before; and declared for the future, that it should be, &c.—Another attainder there was of sir Thomas Haxey; but that was reversed, and declared to be against all law. Then there are the attainders of H. 8's time; I shall not particularize them; but besides that, all the history of those times, and law-books, condemned them, as proceedings against all law and justice. There is the statute of 1 Edw. 6, c. 12, seems directly levelled against those attainders in the preceding reign; for it says, that the proceedings in

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king H. 8's time, were grounded upon laws that were extreme and terrible: and therefore, that there might be no proceedings of that kind for the future, it reduces all treasons to the ancient standard of 25 Edw. 3, and goes on, and enacts, that no man shall be convicted or condemned for treason, but upon the testimony of two lawful Witnesses.—Now I take that to be a general law, and to extend to all convictions and condemnations for treason: and can't but declare my opinion of it, that it must extend to bills of attainder, since these are the principal and most powerful convictions and condemnations: and if that statute does extend to bills of attainder, then pray consider, whether this bill of attainder now be supported by such evidence as the statute requires? There was indeed one lawful Witness produced: but instead of the other, they have only produced a record between parties not concerned in this bill, and the depositions of a person, whether living or dead, *non constat*; and I believe nobody will say these depositions will be equivalent to a second Witness.—I do believe a great many gentlemen are of opinion, that those rules of evidence are not to guide you here: But I beg pardon that I can't possibly be of that opinion; I rather incline to my L. C. J. Vaughan's notion, that though we are not bound by the forms of law, yet we are bound by the rules of law: every body allows we are bound as to the nature of the fact: every body will take himself bound by the statute of 25 Edw. 3, to form his judgment as to the fact: Why are not we then bound by these acts? Likewise as to the evidence, and the proof of the fact: if 25 Edw. 3 be binding to us, so as to prescribe us a rule to judge the fact by, why are not the statutes of Edw. 6 binding to us as to the evidence of that fact?—But say some gentlemen, if there be not two Witnesses, that is from sir J. F. or his agents. Sir, no gentleman will say, that there hath been any proof of that: the very bill does not charge him with it: But taking it for granted, what shall follow upon that? Shall it therefore follow, that sir J. F. shall immediately be put to death? No, God forbid! I think there is no parity between the crime of seducing away a Witness, and the judgment of death: But I think this a more reasonable and natural inference to be made, that because sir J. F. hath seduced away a Witness, therefore it is just to make a law, that the Depositions of that Witness should be of as good force and effect as if Goodman was here to give it *viva voce*: for then you will not take from him the benefit of his trial, nor the benefit of his challenges, which is the birth-right of every Englishman.—And one thing I will say further: These Bills of Attainder are like Sisiphus's stone, they have rolled back upon those that have been the promoters of them. It is known, that my lord Cromwell was the first man that promoted them in H. 8's time: and the advice that he gave his master for the ruin of others, proved fatal to himself.—Sir, this is the last time we shall have the opportunity of considering this matter. I must take leave to declare, that my opinion is, that if I consent to the passing of this bill against sir John Fenwick's life, upon any other grounds than such as are entirely agreeable, and justifiable by the laws of God and man, I am guilty of the death of sir John Fenwick. I am not satisfied that I can give my consent to this bill upon those grounds, and therefore I beg leave to be against it.

Sir *Edw. Seymour*. You all know I have borne my testimony against this bill, being not persuaded that it is just: Now we are come to the finishing part of it: and I shall lay before you those reasons that prevail with me, and submit them to the judgment of the house; and if I am more tedious than I used to be, I hope the occasion is such, that you will pardon me; for I will endeavour to contract myself into as near a compass as I can.—I shall not trouble you with any arguments that have been laid before you already; nor shall I enter into the examination of precedents; a great many have been laid before you, and a great many of them have been reversed, most of them; and the reasons why they have been reversed, because the persons condemned have not had the due benefit of the law: And if that be a good reason for reversing of such an attainder, it is a good reason why you should not do it. I can't but take notice, that the beginning of this bill in the house of commons, is the first step of this kind that hath been made in parliament, except that of the duke of Monmouth; and the reason of it I take to be this, because you hear not upon oath; you condemn not upon oath: You, nor the party under accusation have that advantage against a forsworn evidence, as there is in the other house; the method has been to pass such bills in the house of lords, and transmit them hither, upon which you then judge. I think, in this case you have no evidence; and instead of two Witnesses, you have no Witness at all; for as to Goodman, 'De non apparentibus et non existentibus eadem est ratio.' As to Porter, he hath been examined: But when you consider, that he was a person engaged in this conspiracy, and that he had no repentance of his crime till he was discovered, and then he comes to be an evidence; how far that shall sway, every man must allow; that I must submit to you: But thus much I may say, every man must allow me, that in far less cases no man that does swear for himself, or upon his own account, is to be admitted as an evidence. If a robbery be committed in an hundred, though a man be but to pay a groat towards it, he shall not be an evidence; how much more then in a case, when a man comes to swear to take away another's life to save his own? For he is not in the condition of a freeman; who gives his evidence without check or controul, but he is drudging on for his pardon, as the counsel told you, which depends according to the evidence he does give or not give.—For my part, I can't go so far as some gentlemen have done, to say sir J. F. is guilty: For where there is no law,

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there is no transgression; a man that is guilty, must be guilty according to the law: And the law hath required and said, That there shall be no treason but what is proved by two witnesses; and here it appears that you have not one. The same law that calls it treason, says it shall be so proved: Then if you pass this bill, you make that treason which before was not treason.—Sir, the law does require two witnesses, and there is divine authority for it too: It hath been hinted at, the place in Numbers, 'No man is to die upon single evidence;' and it says, 'These are the statutes you shall 'observe throughout your generations and 'dwellings.' But I will go a little further, because a worthy gentleman declared, there was no such law of God. He will find, in the 19th of Deuteronomy, a case just as it is here; for the case of high-treason was idolatry at that time: and the law says, 'Whosoever shall set 'up idols, shall be stoned to death;' but it says, 'No man shall be condemned to die by the 'mouth of one witness, but by two or three 'witnesses he shall suffer:' I think this is positive enough. I shall not trouble you with more instances, though I could repeat several.—Sir, the law enjoins forms strictly, even to the least circumstance: If a man be condemned to die, and after he is condemned to die, another take away the life of that man, it is murder. I will go further: If the officer that is to do execution, if a man be condemned to be hanged, drawn and quartered; if the officer shot him, it is murder in him; so that men are not left to a discretionary power to act according to their consciences.—I take the reason by which this bill is supported, to be destructive to all human society; for if that be admitted, that a man shall act according to his conscience, and not according to the rules that are prescribed him, I know not who is safe; for how can an innocent man make his defence upon that principle? It is a safe consideration for them that take upon them that way of judging, because they are bound by no rules; but what hath not that done almost within memory! Felton, that killed the duke of Buckingham, what was his justification, but he was persuaded in conscience he did well in so doing? Ravillac, that killed Hen. 4 in France, he justified the same by his conscience, and said he had done a good thing; and I may say this argument of conscience hath acted all the villainy of the last age, and I am afraid hath gone a great way to disturb the happiness of this.—For if this be a rule to this house, how is the king bound? I thought he had been bound by law; but if this shall be admitted as an argument, it is enough to say, if this house be arbitrary, the king is. I do not reflect upon this reign; but it will be enough to say, though he act against law, and turn twenty colleges out of doors, his conscience persuades him to it. We see how unbounded liberty the lords take, they are become masters of all our estates; and I would be very loth for my estate to depend upon the feeble tenure of a lord's conscience.—If then this be the case, as it is, according to this method, I desire to know into what condition we shall bring ourselves?—You have been told, it is expected from you by your country, that you should exert this authority and power: Sir, I would have been glad that in cases more reasonable we had exerted this authority and power of parliament; I wish it had gone to the preventing the debasing and abusing your coin; I wish it could be exerted, that we might not see ourselves cheated under countenance of an act of parliament; but contrary to that, you are fond of being sprinkled with the blood of sir John Fenwick. As long as the government is not in danger, I believe the country would be glad that their blood might run secure in their veins, and not be tapt upon every occasion to serve a turn; for if you break the laws, what man can promise himself security? We know the consequence, if this bill does not pass; sir J. F. may live in misery all his time.—But what this precedent may make, no man can foresee. This bill is against the law of God; against the law of the land; it does contribute to the subversion of the constitution, and to the subversion of all government; for if there be rules to be observed in all governments, and no government can be without them, if you subvert those rules, you destroy the government; and therefore, for these considerations, nobody will think it strange, if I give my negative to this bill.

Mr. *Chanc. of the Exchcq.* Sir, the gentleman that spake last, hath carried the reason against this bill a little further than some others; for it seems now, we are not to reject the bill for want of one witness that is legal in Westminster-hall, but it seems there is no evidence at all; and by capt. Porter's not being pardoned, and yet drudging for his pardon; as to all that have been condemned upon his testimony, he hath arraigned the evidence as not sufficient, and hopes that will be the judgment of the house upon this bill. I think if the house reject this bill upon that argument, it will go further than many mean that oppose it.—Another thing he says, He compares the convictions that I have upon my judgment, and of every body else that speaks from the proofs that are made, that he is guilty, to the whimsey of two or three mad men; whereas we go according to the evidence brought at the bar; we don't go upon the whimsies of Ravillac and Felton, but upon the proofs that have been made here; and though there are not two witnesses, yet upon what appears in proof, I am convinced that he is guilty; and upon that conviction, I think, according to the duty I owe my country, and the constitution of England, when a bill does come to punish the man whom I think guilty, I think I ought to be for the bill. As to what is said out of Deuteronomy, That the law of God was against it, if you will argue *a fortiori*, it is literally true in the case of murder; but whether murder or treason, there is the life of a man concerned; and

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it is not the punishment, whether to be hanged, or hanged, drawn, and quartered, that makes any great difference; and give me leave to say, if you go to make precedents from the Jewish law, then, I say, the law of England is against that law, in case of murder; and by the same reason you may desire leave to bring in a bill to repeal all those laws.—Sir, if this was the eternal law of God and man, where was this eternal law in England before Edward 6th's time? If it be the eternal law, that there must be two witnesses, why does it not hold in England even in some cases of treason to this day; I mean the treason of clipping and coining? So that if gentlemen will argue, the nature of these faults are what the law of every country ordains, and that is the law.—And the way of evidence and proof too differs in every country; and I may affirm, That there never was any government in which there was not a power lodged somewhere to be exerted upon extraordinary occasions, beyond the legal way of prosecution.—I don't care to travel into the several countries to see how their constitution is; but I believe there is not one place in Europe in which it is strictly necessary there should be two witnesses to take away the life of a man; but it is generally so as it is here in all ordinary cases, but in this very law; this last law does not go upon two witnesses, but you have a proviso in it does absolutely exempt proceedings in parliament: I do not infer from thence, that you should not have two witnesses, if you proceed by way of impeachment, I think you ought; and so for having witnesses upon oath, &c. When these proceedings are in parliament, there is a direct proviso, by which the parliament is exempted from those rules. Upon the whole matter, I think this man is guilty; I think the precedent would be more fatal, to say, that a parliament can't proceed in such a case, than that a guilty man should suffer. I think this bill comes before you with more circumstances and reason to justify it, than any that hath been brought here before; here is a bill found against him by his country, the evidence of his friends having tampered with one of the witnesses, confirmed by a jury, &c.—A learned gentleman says, He would come up to make this paper evidence; but can't come up to make such a law, by which every man that is concerned in that deposition would be affected: But here is something particular in this case, a man that hath been abroad, and hath not used the like artifice, I think you ought not to use the like power to punish him, that is not guilty of the like crime. And therefore I shall conclude; but I must take notice of one thing: It was said, That this was the first precedent of this kind begun in this house, but that of the duke of Monmouth: But I believe, if this bill of attainder is not to be begun in this house, it is not to be brought in at all; for I believe there is a statute, That the life of a commoner is never to be meddled with by the lords originally. I will not trouble you any further: I do in my conscience think that sir J. F. is guilty, and therefore I am for this bill.

Mr. *Pelham.* I did not think to have troubled you this day: I did rather intend to have left it to others that can speak better, or have not spoken upon this subject; but that which hath been mentioned by several, as if they did think that we who mentioned the law of God upon this occasion, did it as if we did think the law of God was binding to you at this day: I never thought any such thing, otherwise than as to the morality of it, so far forth as it is grounded upon reason and justice, and tends to the clearing of an innocent man; and so far we and all mankind are bound by it; and that law having been afterwards confirmed in the New Testament by our Saviour and his apostles, at least approved of by them; and this having been confirmed by the law of England likewise; I do not think this is a fit occasion for you to pass by so fundamental a law as that is: And I conclude with this, That I can't satisfy myself in my conscience, and should think some misfortune might follow me and my posterity, if I passed sentence upon sir J. F.'s life, upon less evidence than the law of England requires.

Sir *H. Crofts.* I shall endeavour, as much as I can, to give you little trouble in this matter. But because it hath been hinted and remarked so particularly upon me, I must beg leave to discharge my duty, as well as my conscience, as to what I said here the other day.—Sir, I do very much forget myself, if I did assert, that there was no such place in scripture that required two witnesses: The thing that I said, was this, That if any gentleman could shew me any rule from scripture that requireth two witnesses, more in the case of treason than in the case of murder and felony, I should be glad to see it. I do say, that the scripture shall be a rule to me, as far as the scripture requires; but I do take the Jewish law not to be so absolutely literally binding upon us here. And as to the text out of Numbers, that very text of scripture is particularly and literally applicable to murder; and if that be binding now, we have been very much misguided by our predecessors, and I think we are bound to take it in hand, to repeal all laws that are against it.—Sir, he is pleased to deny us, in some measure, the liberty of being guided by our consciences; truly, I don't know what he would have gentlemen go by; truly, let him go by what rule he pleases, I will go by the rule of my conscience, and will not do any thing against it upon any consideration or consequence whatsoever; nor will I part from the liberty and power of parliaments, for any rule or law of inferior courts whatsoever.—Sir, you are told, you ought to be guided by the rules of law, that is, not the forms of law, but the rules of law. Sir, I say, if these rules were made to bind parliaments, it was reasonable they should be bound by them; but if they were made only to bind inferiour courts, they were far enough from being intended to put a cramp

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upon the proceedings of parliament; and if you shall subject yourselves to them, you give the lawyers such a power, that I don't doubt, but their books will be of greater authority than your journals; therefore, in consideration of that, and because I would leave that which is the right of parliaments to my successors, I shall not submit to that.—Therefore, I say, I come clear to the point, whether sir J. F. be guilty or not; only I must observe a little back, that as to those instances that the worthy member was pleased to make use of, of Ravillac and of Felton; shall those extraordinary cases, that which men did in heat of blood and private malice: shall these be brought to bear a parallel with what is done in parliament for the justice of the nation? I don't doubt but there are men enough, in their consciences, at least with pretence of it, will justify the destruction of your government and religion, and every thing else: All those men that deny the right of your government, have conscience and justice enough to subvert it, if they could; and therefore I do not so much wonder, that many men without doors have argued in that nature.—But I say, my conscience is the rule I must go by; and to me the question is only, whether sir J. F. be guilty or not guilty, and am called to give my judgment in it; and I think I am bound by the law of nature, by the law of the nation, and I see nothing in the law of God that prohibits me, to give my judgment according to the evidence, and the opinion I have in my conscience of the truth of it.—If there be no such rule that requires two witnesses binding upon me; if I may go upon one witness; if I believe he speaks true, and that the person is guilty; then I am bound to act for the preservation of the nation, and all our posterity: They that made this attempt, made it upon you and your posterity for ever: It is not so small a matter as some represent it; it is not the person, so much as the nature of the fact we are to consider; and we are not to let men escape punishment according to their greatness or their smallness, but according to the nature of the fact, and their guilt. I think I have that freedom, and I am so little bound by those rules that have been urged, that if both witnesses were here, and gave testimony against him, if I did not believe him to be guilty, I would lose my life rather than vote him so; but, on the contrary, if here be sufficient evidence to convince me, though not according to the rules of inferior courts, I will not subject the freedom of parliaments to those rules.—Sir, you have been told formerly, and I think it a matter of that weight, I beg leave to urge it again, because it is a great reason that guides me in this matter; if you lay it down for a doctrine in this house (for a resolution here taken is as much a rule as a law, for it shall be brought as a precedent;) and therefore, if it shall be laid down as a rule here, that you will never attaint any man, or find him guilty, but upon two witnesses, I think the government, and all you have, stands upon a tottering foundation: He must be a very ordinary statesman, that can't lay his plot so, as you shan't reach him by two witnesses.—Therefore, I say, I think it becomes the wisdom of parliament, not to declare themselves bound in that respect; I would have them bound by justice, but not by the common rule of the law.

Sir *Robert Cotton.* Sir, I do find that gentlemen do very much insist in this case, that if a gentleman does believe that sir J. F. is guilty, he must give his vote for the passing of this bill: If that be so, I am glad that opinion did not take place in the last reign; if it had, I am of opinion I should not have been here now, and I believe my lord Warrington, who was very instrumental in promoting this revolution, would not have died in his bed. My lord and I were accused of a crime, which, I believe, if proved by two witnesses, had been treason. I have heard some gentlemen say in this house, they did believe my lord Warrington was guilty (though he was not guilty of the fact as it was laid). There was a man swore, &c. and there was some corroborating evidence; but as to Mr. Fley, and myself, there was none but this particular person, and they indicted us of misdemeanor; though it would have been treason, if there had been two witnesses. Now if the same fact was treason when proved by two witnesses, and but misdemeanor when proved by one, methinks we are doing an extraordinary thing; we are going, after the fact committed, to make that which is but a misdemeanor, to be treason. And for these and other reasons, I can't agree to the passing of this bill.

Lord *Norreys.* Sir, though I had always an apprehension of the ill consequence of this bill, yet never so much as now; for this gentleman hath given arguments that shake me more than all that I have heard before; for he says, there are a great many men, if they may proceed according to their consciences, will subvert this government, and bring in king James and arbitrary power: And he tells you, that every precedent in this house is equal to a law, and will justify the like for the future. I am sure I am very unwilling to make a precedent that shall justify men in such ill actions, in saying their consciences prompted them to it.

Then a question was put for bringing in Candles; which passed in the affirmative, and they were brought in.

Mr. *Hamond.* I don't think the power of parliaments in question in this case; but then, as all other powers, it must be founded upon justice, and never used but upon extraordinary occasions, and when criminals are not to be met with otherwise. The power of parliaments is not lessened, if this bill does not pass: But the question is, Whether this power shall be exerted in this case? What gentlemen say of being guided by conscience, hath no weight with me, further than that is governed by the law of the land: If it be to be admitted in the case of life and blood, why not in *meum et tuum?* Why was he brought to the bar then, if, according to our private judgment, we are

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to determine this matter? No man thought but he was guilty.—I beg leave to mention one thing that is come to my knowledge: After the trial and condemnation of Mr. Cook, I had an order sent me, that I might see him; and I went to him by virtue of that order; and the greatest part of the time I spent with him, he took up in declaring against the evidence of Goodman, and that he would receive the sacrament upon it, and give it in writing, as his dying words. I saw also three positive witnesses confront him at his trial; and when I heard him say this, it weighed so much with me, that I have very great ground of suspicion, that Goodman was perjured in the case of Cook.—Here hath been popular expressions of plots, and Jacobites, that no man can apply to this particular case, or say, this is a case wherein we ought to use this extraordinary power: He was in the hands of the law, and nobody can say, that the government must sink, if he does not die. If we go from the rules of justice, I believe it will give a great blow to the government.

Mr. *Vernon*. Sir, I rise up only upon what that worthy gentleman hath offered unto you; for I did not think to trouble you with any thing of that nature. But if you will give me leave to acquaint you with what I believe who have been later with him than this gentleman, and much oftner. Sir, he does tell me, that he is very far from denying what hath been sworn against sir J. F. and himself, concerning the consultation to bring over the French; for he hath a very particular remembrance of it: And if that gentleman was to speak with him now, he would satisfy him, I believe, in that point. And since I am up, I think every man that speaks upon this occasion, should likewise give some account of himself, in what manner, and for what reason, he discharges his conscience here: I hope I may use that word, since gentlemen make use of conscience for his acquittal; and a man ought to have a very good conscience for his condemnation.—As to sir J. F.'s innocence, I wish he had given no occasion to have it called in question: And since he did fall under this accusation, I wish he, or his counsel for him, would have taken some pains to have made his innocency appear: But I don't find the question is, Whether sir J. F. is guilty? But whether there be any evidence of his guilt? And I shall tell you, in short, my opinion of that: I take the proof of the fact to be, in general, such a demonstration, as the nature of the thing is capable of; and that is sufficient, and capable to convince a reasonable, honest, unprejudiced man, of the truth of what is asserted. And there is no manner of doubt left, Whether it is so or no; nor appearance of any possibility, that it could be otherwise. I think there hath been that proof in this case, and nothing attempted to disprove it, and nothing hath been proved on sir J. F.'s behalf, that any wrong hath been done him: And therefore, in short, my sense is, that whereas some gentlemen think him guilty, but the matter not proved, I think him guilty, because it is proved; and there hath been no offer made to disprove it.

Mr. *Bromley Warr*. Some gentlemen have spoke of the power of parliaments; but I shall say nothing to their power, which I have learned from my lord Coke, is so transcendent and absolute, that it cannot be confined within any bounds: But the more just and honourable it ought to be in its proceedings, to give an example to inferior courts. And though their power cannot be denyed, yet the exercise of it hath been often censured and condemned; and acts that have passed in one parliament, have been in the same reign repealed, and sometimes severely branded, 'Id possumus, quod jure possumus.' It is certain, here is a defect of legal evidence: We are not tied here to the forms of Westminster-Hall; but certainly with submission, we ought to tie ourselves up to the rules of Westminster-Hall, especially when they are founded upon common justice, which is the same, is not mutable, and ought to be universal. —By the law of the land, no person ought to be convicted in cases of treason, but upon two witnesses; the law of God is the same. However, if you will pass this bill, all persons must acquiesce; and there is no disputing of your power afterwards. It hath been an argument used to-day, that the security of the government requires the passing of this bill; which I think to be a good one too, if they can make it appear, that unless you proceed in this way, the government is in danger: Though I must observe, it was not that consideration, but the vindication of an honourable person's reputation, that brought this matter first before you. —It does not appear to me, that sir J. F.'s life or death can endanger the government. You have been told of a design that he hath been engaged in, and is carried on at this time: That an invasion from France seems to threaten us: The former design hath been happily discovered and defeated; and it is not probable that sir J. F. should have any great share in any that is carrying on at present: And, as far as I can learn, he is not so considerable a man in his own person or interest, that we need fear him. —An honourable person said, if we do not pass this bill, they that sent us here would give us no thanks. It is not a good way of arguing; but, I believe, if those look forward, they will thank us. Sir, in the act for declaring the rights and liberties of the people, you have it said, that the late king James, by the assistance of divers evil counsellors, &c. How comes it to pass, that we never have attainted any of them? And if we are for proceeding in this way of attainder, because it pleases them that sent us hither, I dare say, the attainting one of those men would gratify those that sent us hither, more than the attainting twenty such as sir J. F. It was pretty well known what share some gentlemen had in bringing in of popery and arbitrary power; and I will take the liberty to say, That there is never a gentleman in this house, but believes them to be the worst of criminals.

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—Upon the whole matter, I do not think you have any occasion to exert a power, that nobody denies: I see no security this will be to the government, and consequently, no necessity of it. I think you are making a most dangerous precedent, and that it will be of ill consequence to you; and therefore I am against this bill.

Mr. *Smith.* Sir, I will be as short as I can; and if it had not been for something in this day's debate, I should not have troubled you. As to what was said bythe gentleman that spake last, of making examples of some that had been criminal in the last reign: how that came to happen, that no such examples were made, I shall not now entertain you; but I believe most of the gentlemen in the house know pretty well. But I take the matter before you is, What Evidence you have to prove sir John Fenwick to be guilty? and whether there be not an extraordinary occasion at this time to exert the legislative power?—I shall not enter into the matter of Precedents, those are out of my province; but I have read some: however, it shall not pass upon me for a rule, because some bills have been reversed, no others shall be brought in; it is possible, that the reversing of them may be worse than the first bringing of them in.—But to apply myself to the Evidence; I cannot but observe one thing, that seems this day extraordinary: we are told by some gentlemen they are against our proceeding upon this bill, because it does not quadrate to the rules of Westminster-Hall; and at the same time, gentlemen take liberty to make exceptions here against that evidence that Westminster-Hall has allowed: that they should take exceptions to that evidence which the law of England allows to be good! For it is notorious, it hath been admitted in Westminster-Hall: and gentlemen might as well have told you, That those men that suffered died innocent, as to have denied it. And I think there is a further strengthening of his evidence; for there is not one man, who hath died upon his evidence, but hath acknowledged himself guilty of what he hath charged him with.—As to the matter of the other evidence, sir, I do not say, that it is evidence that will come at Westminster-Hall; but at the same time, give me leave to tell you, they seem to lay a little stress upon it, when they tell you, they believe it was false evidence, and instance in what Cook said to a gentleman of this house, after his condemnation; but I think thus far I may say, That when you sent some of your members to examine sir J. Friend, he did own all those persons to be at that place: and that is a much better argument for the validity of Goodman's testimony. But as to the matter before you, some gentlemen have made it a question, whether sir J. Fenwick be so considerable a man, as you should proceed in this extraordinary a manner with? Though they all say, you may do it; yet at the same time, they tell you this was never put in execution, but they were in the wrong that did it.—Now, sir, the question is, Whether you should make use of this power at this time? Say some, the Plot is over: I wish it was: but when a conspiracy hath been laid so deep and general as this was, it is not the hanging of one or two that will make us safe; when it is apparent to you, here is all the artifice in the world, all the endeavours in the world, by sir J. F.'s friends, to remove Goodman out of the way; it is some argument that he had something to say to him: and when we see prisons broke open daily; we have known persons murdered in the streets for giving evidence. Very notorious is the case of Dodsworth: you have plots all about you; and yet can you think there is no occasion to make use of this extraordinary power?—I would have as great a conviction upon my conscience as I could; but it is very hard a man must throw his conscience aside in the case: it is very hard to believe, That if there be two witnesses produced, though I don't believe the witnesses, yet I am safe if I condemn the man; and if there be but one witness, I am to acquit the man, though I believe him to be guilty.—And though they go to scripture, to tell you there must be two witnesses, yet they don't go so far as to tell you there have been very extraordinary things done, even by God himself, for the preserving a community.—And there is the reason of it, that one witness may take away a man's life in one case, and not in another. There was a thing said, that was one thing that occasioned my standing up: a gentleman said, truly, it seemed to him to be a better way to put an end to the plot to have an act of indemnity, than the conviction of sir J. F. would be.—Sir, there seems very little reason for acts of indemnity, when we have seen an act passed so lately, which has not restrained persons, nor brought them to a sense of their duty; and we have heard persons own at your bar, That the fact was committed just after the act of indemnity. Sir, I do heartily, according to my conscience, vote for this Bill.

Mr. *Harcourt.* Sir, I am sensible it is very difficult to say any thing, and not seem tedious at this time of night; but I take it to be my duty not to be silent in this matter. All the arguments that I remember have been made use of in any former debate, or in this day's, may be reduced, in short, to these two heads; the danger of the government, and gentlemen's private opinion.—Sir, as to the danger of the government, if any body will convince me there is such danger, (I promise him, if it be worth his while so to do) I will be his proselyte, and vote for this bill: but to tell me, the government is in danger, and that the fate of England and Europe depends upon this bill, is certainly rather offered to amuse, than to convince.—It hath been asked, Can the circumstances that sir J. F. is in admit of any danger to the government, which hath power over his liberty every day, and may restrain him of his liberty during his life? A man, by the account I have had of him, of little interest, not worth ninepence. (I have no acquaintance with him, and

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so I may easily mistake his circumstances.) But, sir, whatever his circumstances are, he is in safe custody, and no doubt there he will be kept; and to say the government is in danger by such a man, sure, that cannot be thought by any man living: and God forbid this should be the case of the government, that it cannot support itself without taking away this unfortunate gentleman's life, contrary to the rules of law!—For the argument of private opinion, it is almost as dangerous as the precedent you are making. I will not argue it from the case of the people, enthusiasts and madmen; but I will urge it in the case of men that sat in judgment. If opinion is to justify the condemning of a man, let us never more call the verdicts against Mr. Cornish, Mr. Sidney, lord Russel, and others, murders. Ask the jury; no doubt none of them are so silly, but in his opinion, they were guilty. But if opinion may condemn a man without proof, why not acquit him as well, where there is proof? Such a practice, I am sure, would never be endured. The properest method, I think, was proposed by the gentleman that began the debate; and I beg leave to follow the same steps, to consider his guilt, how it appears to us, and whether there be any reason for this extraordinary manner of proceeding.—The recital of that Bill are the arguments for it; and those we send up to the house of lords for the passing of this bill: and first, it says, That sir J. F. was indicted by the testimony of Porter and Goodman, &c. It says, that several days were appointed for his trial, and at one of those days the trial had come on, if it had not been for the discovery that he pretended to make; but it does not say it was put off at any other days or times, for that reason: but it goes on, and says, He hath made several reflections, &c. instead of making an ingenuous discovery; and then it recites how that Goodman is withdrawn.—I would beg leave to put gentlemen in mind of what was a great inducement to bring this bill in: it was said, That sir J. F. and his relations had done it; that they would prove that Goodman was withdrawn by his means. Give me leave to say, That there was no proof of it, unless the hearsay of Clancy, and the actions of my lady Fenwick, are to be evidence, contrary to the known laws of England, to affect this unhappy gentleman in the case of his life: I say, if any gentleman had been of another opinion, no doubt, he would have offered that amendment to the committee.—As to the discovery that sir J. F. hath made, it does not appear to me, whether it be true or false: it is one thing to give a vote to clear a gentleman's reputation, and another thing to carry it so far, as to give judgment, That the person that made those reflections shall die, and that before any proof of their falshood.—Here is an Indictment found, and here is an evidence withdrawn; that is all I am satisfied in: and supposing the person guilty, it is no manner of inducement from these arguments, to proceed in this extraordinary manner. But I would consider the matter of the Amendment made at the committee ['Of which treasons he the said sir John Fenwick is guilty.'] I can't say that; and therefore I can't vote for the Bill. If he be guilty, it does not appear so by legal evidence; and therefore I am to judge him, as he appears to me, and an innocent man. The law requires two witnesses to convict a man of this crime. It is the greatest crime, and the law is so merciful, that it won't expose a man to such great penalties, without demonstrative evidence.—The first act of parliament that requires two witnesses is, 1 Edw. 6. The next is 5 Edw. 6. And upon that act, give me leave to take notice, that act goes a little further than the first; for the 5 Edw. 6. does not only say there shall be two witnesses, but it goes on, and says,—— which two witnesses, (they are there called accusers, but mean the same thing,) shall be produced in person before the party at his arraignment, and shall there, before his face, maintain and avow what they have to say. So the parliament particularly provided, That there should not only be two witnesses, but that they should appear in proper person, in open court.—I beg leave to observe, That after the making of the first act, in the 2nd or 3rd year of Edward 6, there was an attainder of sir Tho. Seymour, in parliament, without hearing of him; and that very self-same parliament, within two years afterwards, seems so to have resented that matter, that they made that provision, I have mentioned, in the 5 Edw. 6. and to secure, that that ill precedent should do no harm, they put in that clause. If this act passes, I wish we do not repent it in less time than that parliament did the attainder of sir Tho. Seymour. Let us beguided by the reason, the justice, and the discretion of that act, though we are not bound in our legislative capacity by the power of it. I can't but observe, that from the making of that act, no person has been attainted in any other manner, till the duke of Monmouth: so great a veneration has that law always had in all reigns, though a multitude of conspiracies have happened in them all. I do not think it so material, that there should be two witnesses, as that these witnesses should be heard face to face, and cross-examined. It hath been told you, That it is natural justice and reason that there should be two witnesses. A gentleman asked you, where that natural justice was before the statute of Ed. 6.? Sir, the statute of 25 Edw. 3. says, That every person that is attainted, shall be 'provablement attaint;' and somewhat may be from thence inferred more than that the crime should be proved, for so must every crime. But as to the proof required by that act, and the acts of Ed. 6, all those acts, by very learned opinions, have been thought declarative of the common law: but that's scarce worth the enquiry, since it is certain how the law stands at this day.—An hon. gent. took notice, That such Evidence as we have had, and such proceedings as these, would not be reasonable in case of impeachment; but distinguished between that proceeding and

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this. But certainly the reason is the same. It is true, the same persons that accuse in one case, give their judgment in the other; but in each case, such privileges as are just and reasonable, ought to be allowed to the party accused.—I shall add no more, but that we are making a precedent, which can't be made without breaking through all the fences of the law; and when it is made, we know not who may suffer by it.

Sir *Rd. Temple.* As to the evidence you have before you, I appeal to any man, whether at the common law, if there was but one witness against a man whether he was not at liberty of demanding trial by battle? Those acts that have been made since, are made certainly to provide, that in no case whatsoever, a man should be so much as accused without two witnesses of the treason.—As to what hath been said of the particular evidence before you; what hath been observed here, is a good objection in the courts below. I do not say it does disable a man from being an evidence, because he is not pardoned; but he is not so good an evidence as if he was pardoned; but that I stand upon is this: shall you come here, and make a precedent in this place to condemn a man to the highest penalties, upon less evidence than you will allow any body else to do it? That is what was never done in parliament before. Will you make a precedent in parliament, that at any time they may bring in a bill here, and judge a man to death for treason upon no evidence?—As to this bill itself, consider what a precedent you will make: there is nothing that any bill was condemned for in parliament, that is not in this bill. All mankind must perceive, that you have but one evidence, and such a one as I have told you: and whatever any man's private persuasion is, it is the proof must govern you. Then this is a law *ex post facto,* and that hath always been condemned; you make that evidence, that was not so before. Sir, this is, besides making a law in a particular case, against the common law of England, and the right that every subject has: it is making a law to hang a man without a trial; it is making a law here, that was introduced here upon a pretence to make him an evidence. Every one said, That they did not seek his blood; and if that be the secret inducement in this case, it is a dangerous precedent. The earl of Exeter, when he brought the rack into the Tower, every body knows the fate that came upon him afterwards.—Let any body shew me there was any reason for reversing any act of parliament; they are all against this bill.—Then to the necessity of it; I can't imagine any thing that hath been said to you upon that, is a ground for this bill. Pray consider first, how this matter came before you; it was for an honourable person's vindication, and it was not transmitted to you by the king, but by the honourable secretary: he told you, That if you had a mind to see these papers, and required it, he had leave to let you have them; but if it had been a thing of this consequence, that the government had been in the utmost danger, would it have been transmitted only at the request of a private gentleman, and left unto you, whether you would proceed upon it or no?—But it is observed, that the plot may go on still: pray if this gentleman be cut off, does that cure it? You are secure of him now, that he can't act in it; so that I have not heard the least ground to convince me, that the government would be in less danger if this gentleman was cut off.—Sir, we are told here of going according to our consciences; give me leave to say to you what was instanced in the other day: that in the worst of times, when they did not stick at murdering of the king, yet they stuck at this; they would not allow any man to suffer upon one witness; and they did not admit of depositions against my lord Mordaunt; and my lord Mordaunt saved his life by it.—You have deposed king James for breaking in upon the law; and did any body believe that Mr. Hampden was not guilty of the treason he was charged with? He owned it before this house; and yet he was tried only for misdemeanor, there being but one witness against him; and they that strained all other laws, stuck at this, and would not violate this law; so that I think there is no necessity for making such a precedent, and I think it would be the worst of precedents.

Mr. *Boscawen.* I have observed upon this debate that some persons deny that it is justifiable at any time to proceed upon bills of attainder, and yet they don't dispute the power of parliaments; but at the same time say, they ought to go according to the rules of Westminster-Hall.—Another says, it is the same thing whether we proceed by way of impeachment, or bill of attainder: I think him much out of the way; for in that case, the lords only are judges, and you are the prosecutors; and you don't use your legislative power in that.—A worthy friend of mine said, he had often been mistaken in his own conscience, when he thought himself very much in the right. That might be so; and if there was any room rationally to suppose, that sir John Fenwick was not guilty, I should be of opinion to be of the more favourable side; but I take it, there is no room for any man to believe but he is guilty.—Now I would examine what grounds we have to believe him guilty. Upon trials, when they charge a jury with a prisoner, one part of their charge is to enquire, whether he fled for it or no? It is notorious, that sir J. F. fled for this, which is no small argument of his guilt. Another is, that he was here at the bar, and did not deny the fact; if he had confessed it, no doubt but you would have concluded him guilty; and when he does not deny it, this is the next door to it.—It hath been told you, many bills of attainder have been reversed as unjust; it hath been as notorious, that the verdicts of twelve men, and when men have been tried by their peers, have been reversed too. I will instance in two or three. The first I begin with, was that of the duke of Somerset; but

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nobody could say but he was guilty of the fact, for he confessed it; but there was a powerful enemy, the duke of Northumberland. The next is the duke of Norfolk, who was attainted in queen Elizabeth's time; and they were not by parliament, and yet both were reversed. And I think, as this matter stands now, some gentlemen are of opinion, by the evidence they have heard, that he is guilty; but I think nobody hath said, that it appears to him, by the evidence he hath heard, that he is innocent. Now I desire to know, whether every man must not use his conscience, to judge whether there be sufficient evidence? I acknowledge there is no sufficient evidence to convict him in Westminster-Hall; but there is more to satisfy my conscience, and the world abroad, than if Goodman was here; besides his not denying it, you have the evidence of the persons that died, who owned the same thing: and I mention that the rather, because they confessed it to persons sent from this house; and did not only confess themselves to be guilty, but acknowledged, that there was such a conspiracy; and sir Wm. Parkyns acknowledged in particular, that he was to raise a troop of horse, and that the French were to be invited over: is this nothing for the legislative power, that is to secure the peace and welfare of the government?—Gentlemen say there is a great deal of danger in this matter: some, if you acquit him, others, if you condemn him. If you are satisfied he is guilty, by this bill you set up a land-mark, that others may take care they do not come into this predicament: on the other hand, if you reject this bill, you will give advantage to your enemies; when they shall see a man that is so notoriously concerned in calling in a French army, the worst of your enemies, to be scot-free. If he be guilty, what danger is there of the precedent? When a person in the like nature, that hath fled for it, that does not deny it; when living persons confess it, and dying persons confirm it, then there will be danger in such a person.—Upon the whole matter, I think there is no man that ever I heard, that does not believe him to be guilty; and it is strange you should want evidence, and yet every one think him guilty; and I think no man must be acquitted or condemned, but according to a man's conscience.—An hon. person said, Porter was no good witness: if Goodman was here, he would not be so much; and yet we must acquit him because Goodman is not here: and therefore, upon the whole, I think you will give your enemies a great advantage, if you acquit him; and if you condemn him, you will do yourselves right.

Mr. *Cowper*. Sir, being concerned in prosecutions of this nature without doors, I have hitherto declined concerning myself in any debate of this evidence, though unconcerned in the conduct of the evidence against sir John Fenwick; but being to give my opinion and vote as a judge, I shall crave leave to give my sense of this matter.—I would beg leave, in the first place, to make use of a distinction, which, I think, will serve to answer several of the arguments that have been made use of: I think there are two things to be considered; first, his crime, and the proof of that crime; and then the other matters done by him subsequent, &c.—The crime and proof of it that hath been given against him at your bar, is the ground by which, I think, before God and man, I ought to give my affirmative to this bill, by which you judge him to die. What he hath done subsequent, convinces me in my judgment, that we are here in a proper method and course of proceeding against him; therefore let no man say, that you have condemned him because he hath protracted his trial: no, you have condemned him for having been guilty of High-Treason, manifestly proved against him: then let them not say, on the other hand, will you condemn any man that is at any time guilty of High-Treason? No; but when a man is guilty of the worst of Treasons, and this would have been manifestly proved against him in the ordinary course of proceedings, but that he, undertaking to atone for his crime, and serve his country, hath protracted his trial till one of the evidence is gone; and then, though he pretended to have a reserve, which he would make known to the king's person, yet when he thinks he is out of the ordinary reach of justice, he sets the justice of his country at defiance. These are grounds, not why he is to die, but to justify our proceeding in this manner.—Sir, I would beg leave, in a few words, to take notice of a few things said in this matter: gentlemen are afraid, that this will be made use of by posterity to the disadvantage of honest men; and you have been told, that precedents have begun with the punishment of the guilty, and then have been carried on to the punishment of those that have not been so. It is true, there hath been a very bad use made of very just acts in relation to the public: but what do gentlemen infer from that? Must we have no such things as justice? Must not the guilty be punished, because the same methods may be made use of for the punishing of honest men? I am not afraid of what use posterity will make of it; if there come times of violence when there are no parliaments, they will not want this precedent; there are others that have been cited, that will much more justify those proceedings; nay, this may protect the innocent. If a bill come to be proceeded in against another, he may say, sir J. F. was heard personally, and by his counsel; that the evidence was produced before him, and confronted with him. An innocent man may say, there was that extraordinary in his crime, which is not in mine: he would have introduced a foreign army, and afterwards have aggravated his crime, by endeavouring to abuse the king, and creating a jealousy between the king and his ministers.—Sir, in the next place it is said, That here is not legal evidence; which I think is a mistake: and, say some, though here is an evidence, that really

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convinces them in their consciences (I am not ashamed to make use of that word), yet they are not for passing this bill, because there is not a legal evidence. With submission, that is a mistake; before 1 Ed. 6, one witness was a good evidence in High-Treason; but there was variety of opinions touching Treason before that time; but neither the first nor the 5th Ed. 6, in the penning or wording of them, nor in the reason of them, were intended to extend to the high-court of parliament; so that for aught that hath been said, though one witness corroborated by circumstances, as this case is, and the confession of the party, would not be legal evidence below; yet with submission, it is a legal evidence in parliament, even according to the strict rules of law; because no law hath made two witnesses requisite in this case; so that it is a convincing evidence: I think it may be justified to be a legal evidence; and as it convinces me, that I cannot resist the belief of it, I must be for this bill, notwithstanding what some gentlemen have said, by way of endeavouring to explode conscience as a rule not to walk by in this case. One instance given against it was, because a hangman has not a discretionary power to execute a man according to his conscience, and put him to what sort of death he pleases; as if we had not a better, and more legal, and discretionary power in the high court of parliament than the hangman has.—But we are told of several instances, where mad, and hair-brained men have made use of their conscience to palliate their extravagancies. No doubt it hath; and let me tell you, religion hath been made use of as a pretence to the worst of villanies in all ages: and yet I hope they will not argue, that there ought to be no religion neither, for a guide to men's actions. When men come to be judges, I would know what rule they can have better than a sedate, well-informed conscience? Below, when a legal evidence is given, yet the jury are not bound to go by that legal evidence: they are, when they have heard it, judges of the fact, and are to go by no other rule, than what is ridiculed here, even the rule of their own conscience. It was said early in the debate, by a member of great reputation, that this (except Monmouth's case) is the first precedent of a bill of attainder that began in this house. It seems the ancient way was, for the lords to give the witnesses their oaths, and when they thought fit, they sent down a bill, and the commons were to proceed upon it: but I think, with submission, this is a much better way; and I had much rather give my consent upon hearing convincing evidence, and that the party has nothing to say for himself, than upon any bill transmitted from the lords, and no other evidence than that they thought fit to pass it. Some gentlemen have set a great weight, or rather mistaken the argument: say they, sir John Fenwick is not a man so considerable as to endanger the government. Admit that those that have spoke for the bill, have not made that use of the argument; but this is that I lay my finger upon in particular; it is plain he was to be general, and knew a great many of the officers. I am satisfied he hath not made that atonement to his injured country, that he ought to have done. I am satisfied that unless this bill proceed steadily against him, you will have none of that discovery.—— [Here he was interrupted by the noise of some gentlemen, shewing dissatisfaction at that way of arguing.] Mr. Cowper proceeds. Do not let gentlemen pervert this argument, and say, will you hang a man if he do not confess? No; but when I have heard proof, that he is guilty of the worst of Treasons, and hath aggravated his crime in that manner which he hath done, he deserves to die; unless he will merit his life by a discovery of what he knows. I think it is of the highest importance to you, that can be, that you should come to the further knowledge of the other branch of the conspiracy; the meeting of the French king's forces in England. I think you are in a proper method, and perhaps may have a better issue of this bill than his death: but if not, he will but pay the debt which he owes to the justice of his country.

Mr. *Paget.* Sir, I cannot believe but I shall be heard, as to the little I have to say, with some uneasiness, after so long a debate. But, sir, since I did take the liberty to give my opinion, why I was against this bill before; I think it as reasonable to give you my reasons, why I do not stand convinced by the arguments I have yet heard. And that I may the better give you my reasons, I shall, as well as I can remember, repeat some of the arguments that have been urged for the passing of it.—If I mistake not, some of the arguments have run upon the power and prerogative of parliament; some upon what was proper evidence in this high court of parliament, other than what would be in other places; others upon the extraordinariness of the occasion.—As to the first of these arguments; since gentlemen, much more experienced in rules of parliament, do not think fit to deliver their private opinion, what rules parliaments may in reason be supposed to have, I shall not say any thing to that. —As to the arguments, of what evidence shall be sufficient to adjudge a man to death in this house; I confess, I shall at all times be very careful how I give my opinion in matters of life and death; because I think the greatest caution is to be used in that case: and for this reason, I cannot consent to give my opinion in one case, that I shall think fit to retract in any case afterwards. If I understand the meaning of the house, it is not in favour to sir J. F. himself that gentlemen oppose this bill, but for fear of ushering in a precedent, that may be made use of against a better man.—I confess here is a worthy member that spake last, said something in his argument that hath some weight with me. I did apprehend by the general debate of the house, that the parliament had no rules at all, but what they would fix to themselves; but I have a great regard for his

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opinion: but if he says true, the evidence before you is not legal evidence in Westminster-Hall; but it is legal evidence according to the rules of proceeding in the high court of parliament: but I think, truly, if they may be presumed to have any rules to go by, nothing is so plain to me, as that a rule of their own of so late date, as the act for regulating trials in cases of Treason, should be a rule to them: and it is said in that act, that after such a day no person shall be brought to trial in any case of Treason, &c. but he shall be condemned upon the evidence of two witnesses; and I must needs say, that act that was passed last sessions, is so much for the liberty of the people of England, that I think it will be very hard to repeal that substantial part of the law so soon after it was made.—As to the extraordinariness of the case, I am sensible what stress hath been laid on that argument, as if the strength of this government did in some measure depend upon your disposal of this matter one way or the other: and since that is the case, I shall speak tenderly of it; for I do as much abhor acts of Treason against the government, as any man that hath spoke for this bill: I think as the crime is to be distinguished from all others, as being a more than ordinary crime, so I think the person that is concerned, must be extraordinary: and I think, with submission, there is some difference between principals and seconds in an act of Treason. When you cannot come at a man being at the head of a rebellion, it may be reasonable to proceed by bill of attainder; but I think it is not to be used upon all occasions, or when you may come at a person another way; which, I think, is the case of this gentleman. I am of opinion, that there does not depend more upon sir J. F. now, than when he was first taken Why he was not tried, I shall not examine the reason; I suppose it was because he gave some assurance of his confession; truly, I have heard no other reason for proceeding against him now, but those papers which have been adjudged scandalous, and are so to all intents and purposes, I do think truly: but the liberty of the people of England is very much concerned in the revocation of that act, which was promoted for the liberty of the people; and none of the arguments that have been used can convince me, that I ought to give judgment upon less evidence, than is provided by that act.

Mr. *Sloane.* Sir, I hardly thought I should have needed to have troubled you with my thoughts in this matter, but that this honourable gentleman that spake last, has gone so far in his reason, as to speak to matter of law: he seems to extenuate the fault of sir J. F.; and gives it as a reason why he should not be attainted by this bill, for that he was none of the principals, but only an accessary: there is no gentleman of the gown but will tell you, that there is no accessaries in cases of Treason, but they are all principals, and equally guilty; and there is no evidence in this case to make him accessary, but he is either principal or nothing. —When I have made this observation, give me leave to tell you my own thoughts: as every man is to be saved by his own faith, so may my salvation depend upon my opinion, according to my conscience in this matter, which is for passing this bill.—The last time, I gave you my reasons why I was for this Bill; and yet I have not heard them answered, though a gentleman said I answered myself; but I will state the case, and desire him to reply to me. I did say then, sir, and do so again, that I do not think those scandalous papers any reason to provoke you to pass this bill; and I do think, if he should be threatened, it would be a blemish upon his confession. Another thing I put out of the case, that he is a man so dangerous to the government, that if he escape, we are all undone. I do take him, that in his person, interest and friends, he is not so; and would not have that be a motive for the passing of this bill: but take it upon the evidence that is before us, and the nature of our proceedings? then I will say, we have great reason to proceed upon this bill, for the preservation of the government, and for this reason; whereas it is insisted on one side, that here are the laws and liberties of England at stake, and nobody knows whose case may be next. Sir, if we don't go upon good grounds and reasons, that we don't fear any body's following, God forbid we should make this a precedent! But pray turn the tables on the other side, and see what the case will be; that here is a gentleman that every body of the house does believe guilty; that he hath been in a conspiracy to bring in the French, and depose the king; and the man came before us, and we had no power to reach him; What will be the precedent on the other side? It will be easy to take off one of the witnesses by men of great estates, and then there is no coming at them, even by the parliament themselves: This parliament was of opinion, That they could not come at sir J. F. though they were of opinion that he was guilty.—But now, sir, to that which is the question: It is allowed by every body, you may do what you please; but without straining your legislative power, I shall offer my thoughts and reasons for it, upon these three points: That the fact is treason; That he is plainly guilty; and that we have a plain jurisdiction in this case, in the ordinary methods and proceedings of parliament.—Sir, the fact is treason, the meeting at several times, and conspiring and consulting to bring in a French power to depose the king. You have been told by several persons, and the counsel at the bar, That such meetings without some other overt-act, is not treason; but I affirm the contrary, for that is an overt-act of compassing the death of the king: And sir Barth. Shower, who did insist upon it at the bar, did otherwise act his part upon it at the trial of Mr. Cook; for he offered it at first, but afterwards he deserted it, as a thing he could not stand upon; for it is the opinion of all the judges, upon a late resolution.—Then, sir, the fact being treason, is no

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act *ex post facto*. We are not making that treason which was not so, but we are only judging of the fact that was treason before; though if it was a doubt whether it was treason or no, the parliament hath a power by 25 Edw. 3, to judge that treason, that the courts below have no power of.—The next thing is, Whether there be sufficient evidence of his treason before us? I will put it out of the case, as no conclusive evidence at all, what Goodman hath said upon his oath (further than that there was such a witness that did and could swear such a thing, and that he was examined before the jury); and this I will take upon me to say (and I will give my reason for my opinion), That the parliament is not obliged to two witnesses by any law now in being.—It hath been told you, That from the time of Edw. 3. one witness was sufficient till the statute of Edw. 6. Now I will prove to you, from the statute of Phil. and Mary, That by the common law, and all the time between the reign of Edw. 3. and Edw. 6. one witness was sufficient for this treason. For that statute of Phil. and Mary does say, that any person that shall bring from beyond sea any false and counterfeit coin, or be accused or impeached of any offence concerning the impairing, counterfeiting, or forging of any coin current within this realm, shall, and may be indicted, arraigned, convicted, or attainted by such-like evidence, and in such-like manner as was accustomed before the first year of king Ed. 6. Now, what was the reason of that statute before the statute of Ed. 6? Those counterfeits were to be tried by one witness; and therefore at this day all the counterfeiters and utterers of false coin have been attainted by one witness.—It is said again, That there is the law of nations, and the law of God, to the contrary. Gentlemen have said several times already, That in murder and felony one witness is sufficient; which, saving some little parts of the judgment as to the forfeiture and attainting of the blood, is the same penalties. We are not in the land where that law was in force; for by that law, as to common felons, there was a restitution only: But I would put a gentleman that sits by the bar this case; By the same law of Deuteronomy and Numbers, that he hath quoted, adultery is death: Will you be contented that that should be so here? They are either all of them in force, or none of them in force.—I do say, That by the statute of Ed. 3. and ever after, till the statute of Ed. 6. one witness was sufficient to convict any man of treason. And I do say, That the statutes of Ed. 6. do not preclude the parliament from any method of proceedings.—The statute says, That no man shall be indicted, &c. nor shall they proceed upon such indictment. From which words in the statute, I do plainly make it appear to any gentleman that will read it, it is confined only to the courts of Westminster-Hall: For certainly, you can't call a bill of attainder to be a proceeding upon an indictment. What I say, is only to discharge my own conscience, and to salve the tender consciences of them that hear me; and therefore, I desire them never to say, That there ought to be two witnesses, before they answer what I have said upon that statute.—Then, sir, you have need but of one Witness, and you have had captain Porter, before you; who, I think, notwithstanding all that hath been said, is a credible witness. A gentleman made some objections to his credit, and told you, he was not to be believed, because he was in the same conspiracy, and had been in such a villainous action: But, sir, the same gentlemen hath often confined you to the rules of Westminster-Hall; and he hath told you, It is a wrong place here, and that a man has not so good a trial here as in Westminster-Hall. Why? the thing that was spoke of, of his being concerned in the Assassination, and of his being a fellow-conspirator with them, which is now urged as an objection before you, is no objection in Westminster-Hall.—I would only take notice of another objection this gentleman made to the witness, which he said he had from the bar; which was, That captain Porter was not pardoned, and he was now drudging for his pardon: But that is so far from what ought to be quoted, that he that said it ought to be reprimanded for it. He made another objection against his being a good witness, and compared it to the case of an hundredor: but he did not remember, that the man that was robbed is a good witness; and the reason is, because of the necessity of the thing, and that no others can be; and the defendant in an hundred can't be a witness, because there may be others; and that is the reason of this case.—And for the predecents in R. 3rd's and Hen. 4th's time, no gentlemen can insist upon them, considering the differences of the crown, and the one attainted the other: and they were not reversed upon the point of jurisdiction, but because of the different rights of the kings; and nobody had pretended to answer the case of the Regicides; they were not left to the law, I mean such as were actually tried before the parliament; but the parliament passed different judgment on them; and some of them were in custody. What was told you of Cromwell's case and others, they go upon the same reason, that they were not heard, though they were in custody.

Col. *Wharton*. A gentleman lately told you, We had lately passed an act for trials in cases of treason, and now we are in this proceeding, about doing something that is contrary to it: That is a thing that would stick with me, if I could not answer it; but I appeal to every gentleman in this house, whether that act hath any sort of relation to trials in parliament; for that is only to direct the courts in Westminster-Hall. I have only this to say; I think the evidence very full before you. I think you have had one very good witness, and the counsel for the prisoner had liberty to confront him: If he had not been guilty, the prisoner at the bar would have denied it: I am convinced of the truth of it, and my conscience is to make a judgment upon it, and that is all we can go by.

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Mr. *Jefferys*. A worthy gentleman of the long robe hath taken pains to find out precedents to justify our proceedings; and another says, there is no act to circumscribe our proceedings. But since gentlemen differ so much, it gives me a great deal of caution. This I know, there is a law of the land, by which persons ought to be governed: I take this to be an extraordinary method of proceeding, and I hope the lords will take more care of the matter than the commons.

Mr. *Ed. Harley*. Sir, I can't satisfy myself to be for this bill; and in a few words, I shall give my reason for it. It hath been said, That the parliament is unlimited. I do agree, that we are not tied to the rules of Westminster-Hall. I shall only mention the reason why two witnesses are required in cases of high-treason. If any will look into the history of England, they will find it hath been often the design of the crown to trump up plots upon the subject; and therefore these acts took particular care there should be two witnesses to prove the fact: This is the reason of the law, and, I think, upon it the liberty of the subject is founded; and therefore I can't be for this bill.

Then the question for passing this Bill was put, and the house divided. Ayes, 189; Noes, 156.

The Bill sent up to the Lords.] Being thus carried in the affirmative, the Bill was sent up to the lords for their concurrence. The lords took a very extraordinary method to force their absent members to come to town. They sent messengers for them, to bring them up; which seemed to be a great breach on their dignity; for the privilege of making a proxy was an undoubted right belonging to that peerage; but those, who intended to throw out the Bill, resolved to have a full house. The Bill met with great opposition; and the debates were the warmest, and lasted the longest, of any that had ever been.

The substance of the arguments in the house of lords, brought against this way of proceeding by Bill of Attainder, was, That the law was all men's security, as well as it ought to be their rule: If this was once broke through, no man was safe: Men would be presumed guilty, without legal proofs, and be run down, and destroyed by a torrent: Two witnesses seemed necessary, by an indisputable law of justice, to prove a man guilty: The law of God given to Moses, as well as the law of England, made this necessary: And, besides all former ones, the law, lately made for trials in cases of treason, was such a sacred one, that it was to be hoped, that even a parliament would not make a breach upon it. A written deposition was no evidence, because the person accused could not have the benefit of cross-interrogating the witness; by which much false swearing was often detected: Nor could the evidence, given in one trial, be brought against a man, who was not a party in that trial: The evidence, that was offered to a grand jury, was to be examined all over again, at the trial; till that was done, it was not evidence. It did not appear, that Fenwick himself was concerned in the practice upon Porter: What his lady did, could not be charged on him. No evidence was brought, that Goodman was practised on; so his withdrawing himself could not be charged on Fenwick. Some very black things were proved against Goodman, which would be strong enough to set aside his testimony, though he were present; and that proof, which had been brought in Cooke's trial, against Porter's evidence, was again made use of, to prove, that, as he was the single witness, so he was a doubtful and suspected one: Nor was it proper, that a bill of this nature should begin in the house of commons, which could not take examinations upon oath. These were the arguments used by the lords, as well as the commons, against the bill.

On the other side, bishop Burnet being convinced, that Fenwick was guilty, and that the method of proceeding by way of attainder, was not only lawful, but, in some cases, necessary, and having, moreover, by his search into parliamentary proceedings, on such occasions, when he wrote the History of the Reformation, seen further into those matters than otherwise he should ever have done, he thought it incumbent upon him, when his opinion determined him to the severer side, to open his reasons in justification of his Vote; which he did, to this effect:

"The nature of government required, that the legislature should be recurred to, in extraordinary cases, for which effectual provision could not be made by fixed and standing laws. Our common law grew up out of the proceedings of the courts of law: Afterwards this, in cases of treason, was thought too loose; so the law, in this point, was limited, first, by the famous statute in Edw. 3d's time; and then, by the statute of Ed. 4th's time, the two witnesses were to be brought face to face with the person accused; and the law, lately made, had brought the method of treason to a yet further certainty. Yet, in that, as well as in the statute of Edw. 3, parliamentary proceedings were still excepted. And, indeed, though no such provision had been expressly made in the acts themselves, the nature of government puts always an exception in favour of the legislative authority. The legislature was, indeed, bound to observe justice and equity, as much, if not more, than the inferior courts; because the supreme court ought to set an example to all others. But they might see cause to pass over forms, as occasion should require. This was the more reasonable among us, because there was no nation in the world, besides England, that had not recourse to torture, when the evidence was probable, but defective. That was a mighty restraint, and struck a terror into all people; and the freest government, both ancient and modern, thought they could not subsist without it. At present, the Venetians have their civil jurisdictions, and the Grisons have their high

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courts of justice, which act without the forms of law, by the absolute trust, that is reposed in them; such as the Romans reposed in dictators, in the time of their liberty. England had neither torture, nor any unlimited magistrate in its constitution; and therefore, upon great emergencies, recourse must be had to the supreme legislature. Forms are necessary in subordinate cases; but there is no reason to tie up the supreme one by them. This method of attainder had been practised among us at all times. It is true, what was done in this way at one time, was often reversed at another; but that was the effect of the violence of the times, and was occasioned often by the injustice of those attainders. The attainders of inferior courts were, upon the like account, often reversed: But, when parliamentary attainders went upon good grounds, though without observing the forms of law, they were never blamed, not to say condemned. When poisoning was first practised in England, and put in a pot of porridge in the bishop of Rochester's house, this, which was only felony, was, by a special law, made to be high-treason; and a new punishment was appointed by act of parliament. The poisoner was boiled alive. When the nun of Kent pretended to visions, to oppose Henry 8's divorce, and his second marriage; and said, If he married again, he should not live long after it, but should die a villain's death; this was judged in parliament to be high-treason; and she and her accomplices suffered accordingly. After that, there passed many attainders in that reign, only upon depositions, that were read in both houses of parliament. It is true, these were much blamed; and there was great cause for it: There were too many of them; for this extreme way of proceeding is to be put in practice but seldom, and upon great occasions; whereas many of these went upon slight grounds, such as the suffering some passionate and indecent words, or the using some embroidery in garments and coats of arms with an ill intent. But that, which was indeed execrable, was, that persons in prison were attainted, without being heard in their defence. This was so contrary to natural justice, that it could not be enough condemned. In Edward 6's time, the lord Seymour was attainted in the same manner, only with this difference, that the witnesses were brought to the bar, and there examined; whereas formerly they proceeded upon some depositions, that were read to them. At the duke of Somerset's trial, which was both for high-treason and for felony, in which he was acquitted of the treason, but found guilty of the felony, depositions were only read against him; but the witnesses were not brought face to face, as he pressed they might be. Upon which it was, that the following parliament enacted, that the accusers (that is, the witnesses) should be examined face to face, if they were alive. In Elizabeth's time, the parliament went out of the method of law, in all the steps of their proceedings against the queen of Scots. It is true, there were no parliamentary attainders in England during that long and glorious reign, upon which those, who opposed the bill, had insisted much; yet that was only, because there then was no occasion here in England for any such bill. But in Ireland, where some things were notoriously true, which yet could not be legally proved, that government was forced to have, on many different occasions, recourse to this method. In James 1's time, those, who were concerned in the Gunpowder Plot, and chose to be killed, rather than taken, were by act of parliament attainted after their death; which the courts of law could not do, since, by our law, a man's crimes die with himself; for this reason, because he cannot make his own defence, nor can his children do it for him. The famous attainder of the earl of Strafford, in king Charles 1's time, has been much and justly censured, not so much because it passed by bill, as because of the injustice of it. He was accused for having said, upon the house of commons refusing to grant the subsidies, which the king had asked, 'That 'the king was absolved from all the rules of 'government, and might make use of force to 'subdue this kingdom.' These words were proved only by one witness, all the rest of the council, who were present, deposing, that they remembered no such words, and were positive, that the debate ran only upon the war with Scotland; so that though 'this kingdom,' singly taken, must be meant of England, yet it might well be meant of 'that kingdom,' which was the subject then of the debate. Since then the words were capable of that favourable sense, and that both he, who spoke them, and they, who heard them, affirmed, that they were meant and understood in that sense, it was a most pernicious precedent, first to take them in the most odious sense possible, and then to destroy him, who said them, upon the testimony of one single exceptionable witness. Whereas if, upon the commons refusing to grant the king's demand, he had plainly advised the king to subdue his people by force, it is hard to tell, what the parliament might not justly have done, or would not do again in the like case. In Charles 2's time some of the most eminent of the regicides were attainted, after they were dead; and in king James's time the duke of Monmouth was attainted by bill. These last attainders had their first beginning in the house of commons. Thus it appeared, that, these last two hundred years, not to mention much antienter precedents, the nation had upon extraordinary occasions proceeded in this parliamentary way by bill. There were also many precedents of this method. And whereas it was said, that an ill parliament might carry these too far, it is certain, that the nation, and every person in it, must be safe, when they are in their own hands, or in those of a representative chosen by themselves. As, on the other hand, if that be ill chosen, there is no help for it; the nation must perish, for it is by their own fault. They have already too

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many precedents for this way of proceeding, if they intend to make an ill use of them. But a precedent is only a ground or warrant for the like proceeding upon the like occasion. Two rules were laid down for all bills of this nature; first, that the matter be of a very extraordinary nature. Lesser crimes had better be passed over than punished by the legislature. Of all the crimes, that can be contrived against the nation, certainly the most heinous one is, that of bringing in a foreign force to conquer us. This ruins both us and our posterity for ever. Distractions at home, how fatal soever, even though they should end ever so tragically, as ours once did in the murder of the king and in a military usurpation, yet were capable of a crisis and a cure. In the year 1660, we came again to our wits, and all was set right again. Whereas there is no prospect, after a foreign conquest, but of slavery and misery. And, how black soever the assassinating a king must need appear, yet a foreign conquest is worse; it is assassinating the kingdom; and therefore the inviting and contriving that must be the blackest of crimes. But, as the importance of the matter ought to be equal to such an unusual way of proceeding, so the certainty of the facts ought to be such, that, if the defects in legal proof are to be supplied, yet this ought to be done upon such grounds, as make the fact charged appear so evidently true, that though a court of law could not proceed upon it, yet no man could raise in himself a doubt concerning it. Anciently treason was judged as a felony still is, upon such presumptions, as satisfied the jury. The law has now limited this to two witnesses brought face to face. But the parliament may still take that liberty, which is denied to inferior courts, of judging this matter, as an ordinary jury does in a case of felony. In the present case there was one witness *viva voce*, upon whose testimony several persons had been condemned, and had suffered; and these neither at their trial, nor at their death, disproved or denied any circumstance of his depositions. If he had been too much a libertine in the course of his life, that did not destroy his credit as a witness. In the first trial this might have made him a doubtful witness; but what had happened since had destroyed the possibility even of suspecting his evidence. A party had been in interest concerned to inquire into his whole life, and in the present case had full time for it; and every circumstance of his deposition had been examined; and yet nothing had been discovered, that could so much as create a doubt. All was still untouched, sound, and true. The only circumstance, in which the dying speeches of those, who suffered on his evidence, seemed to contradict him, was concerning king James's commission; yet none of them denied really what Porter had deposed, which was, that Charnock told him, that there was a commission come from king James for attacking the prince of Orange's guards. They only denied, that there was a commission for assassinating him. Sir John Friend and sir Wm. Perkins were condemned for the consultation now given in evidence against sir John Fenwick. They died not denying it. On the contrary they justified all they had done. It could not be supposed, that, if there had been a tittle in the evidence that was false, they should both have been so far wanting to themselves and to their friends, who were to be tried upon the same evidence, as not to have declared it in the solemnest manner. These things were more undeniably certain than the evidence of ten witnesses could possibly be. Witnesses might conspire to swear a falshood; but, in this case, the circumstances took away the possibility of a doubt. And therefore the parliament, without taking any notice of Goodman's evidence, might well judge Fenwick guilty; for no man could doubt of it in his own mind. The antient Romans were very jealous of their liberty; but, how exact soever they might be in ordinary cases, yet, when any of their citizens seemed to have a design of making himself king, they either created a dictator, to suppress or destroy him, or else the people proceeded against him in a summary way. By the Porcian law, no citizen could be put to death for any crime what-soever: yet such regard did the Romans pay to justice, even above law, that, when the Campanian legion had perfidiously broke in upon Rhegium, and pillaged it, they put them all to death for it. In the famous case of Cataline's conspiracy, as the evidence was clear, and the danger extreme, the accomplices in it were executed, notwithstanding the Porcian law. And this was done by the order of the senate, without either hearing them make their own defence, or admitting them to claim the right, which the Valerian law gave them, of an appeal to the people, yet that whole proceeding was chiefly directed by the two greatest asserters of public liberty, that ever lived, Cato and Cicero. And Cæsar, who opposed it on pretence of its being against the Porcian law, was for that reason suspected of being in the confederacy. It appeared afterwards, how little regard he had, either to law or liberty, though, upon this occasion, he had made use of the one to protect those, who were in a plot against the other."

The Bill is passed by the Lords.] This last expression was much resented by those, who were against the Bill, as carrying a severe reflection upon them for opposing it; and indeed the bishop, though he only offered what reasons occurred to him to justify his voting for the bill, fell under a great load of censure on this occasion. In conclusion, the bill passed by a small majority of seven voices only, there being 68 for it, and 61 against it.

A List of the Lords for and against the Bill.

Bishops for the Bill.—Canterbury, Litchfield, Sarum, Chester, Ely, Oxon, Norwich, Peterborough, Gloucester, Bristol, Lincoln, Chichester.

Lords Temporal for the Bill.—Prince George, Norfolk, Southampton, Richmond, St. Albans,

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Bolton, Schomberg, Newcastle, Oxford, Derby, Suffolk, Bridgewater, Bolingbroke, Manchester, Rivers, Stamford, Sunderland, Sandwich, Essex, Macclesfield, Radnor, Portland, Monmouth, Montague, Marlborough, Scarborough, Warrington, Bradford, Romney, Tankerville, Abergavenny, Delawarr, Berkley, Morley, Ewre, Wharton, Sidney, Lovelace, Howard, Raby, Vaughan, Ward, Culpeper, Lucas, Rockingham, Berkley, Cornwallis, Osborn, Ossulston, Cholmondley, Ashburnham, Weston, Herbert, Haversham. In all 66.

Bishops against the Bill.—London, Durham, Winton, Rochester, Exeter, St. David, Hereford, Bath and Wells.

Lords Temporal against the Bill.—Leeds, Pembroke, Somerset, Ormond, Northumberland, Devonshire, Halifax, Normanby, Lindsay, Dorset, Kent, Huntington, Northampton, Bristol, Winchelsea, Kingston, Carmarthen, Thanet, Scarsdale, Bath, Craven, Burlington, Feversham, Sussex, Berkley, Nottingham, Rochester, Abington, Carlisle, Torrington, Hereford, Weymouth, Longueville, Willoughby of Eresby, Ferrers, Fitzwalter, Willoughby of Brook, Chandos, Hunsdon, Brooke, Leigh, Jermyn, Byron, Clifford, Granville, Arundel, Dartmouth, Guildford, Godolphin, Jefferies, Lemster, Pawlet. In all 60.

Protest thereon.] The lords who were for the Negative entered the following Protest:

"Because Bills of Attainder against persons in prison, and who are therefore liable to be tried by law, are of dangerous consequence to the lives of the subject, and, as we conceive, may tend to the subversion of the laws of this kingdom.—Because the Evidence of grand jurymen, of what was sworn before them against sir J. F., as also the evidence of the petty jurymen, of what was sworn at the trial of other men, were admitted here; both which are against the rules of law; besides that they disagreed in their testimony.—Because the information of Goodman in writing was received, which is not by law to be admitted; and the prisoner for want of his appearing face to face, as is required by law, could not have the advantage of cross-examining him.—And it did not appear by any evidence, that sir J. F., or any other person employed by him, had any way perswaded Goodman to withdraw himself; and it would be of very dangerous consequence, that any person so accused should be condemned; for by this means a witness, who shall be found insufficient to convict a man, shall have more power to hurt him by his absence, than he could have if he were produced *vica voce* against him.—And if Goodman had appeared against him, yet he was so infamous in the whole course of his life, and particularly for the most horrid blasphemy which was proved against him, that no evidence for him could or ought to have any credit, especially in the case of blood. So that in this case, there was but one witness, viz. Porter; and he, as we conceive, a very doubtful one.—Lastly, Because sir J. F. is so inconsiderable a man, as to the endangering the peace of the government, that there needs no necessity of proceeding against him in this extraordinary manner. (Signed) Huntingdon, Thanet, N. Dunelm', R. Bath and Wells, Craven, Carlisle, Nottingham, H. London, Gil. Hereford, Willoughby, Kent, R. Ferrers, Granville, Fitzwalter, Halifax, Lindsey, P. Winton', Arundell, Lempster, Hereford, Carnarvon, Jonat, Exon', Jeffreys, Northumberland, Abington, Hunsdon, Chandos, Scarsdale, Normanby, Weymouth, Tho. Menev', Dartmouth, Sussex, Northampton, Bath, Tho. Roffen', Bristol, Leeds, Rochester, Leigh, Wilby de Broke."

The king gave the royal assent to this Bill Jan. the 11th, 1696-7, and on the 28th sir John was beheaded on Tower-Hill.*

Proceedings for the purpose of retrieving the Embarrassments of the Revenue.] Nov. 27. A motion being made in the Commons for a time, when the house should resolve itself into a Committee on the Grievances of the Kingdom, an amendment was offered to it, by inserting the words State of the Nation, instead of Grievances, and carried in the affirmative, Yeas 137, Noes 113.

The same day, the house being principally occupied with enquiring into the State of the Revenue, and the means of raising a further Supply, we shall here insert an Abstract of the principal Proceedings on that head during this Session.†

"The ways and means of raising this Supply were, 1. A general Capitation or Poll-Tax: 2. A Tax of 3*s.* in the pound upon Land: and 3. A Duty upon all Paper, Paste-board, Vellum and Parchment, imported or made in this kingdom. But still the greatest difficulty of all, was the loss of Public Credit: for the tallies struck, or funds settled by parliament, especially such as were remote, were exchanged for ready money, at a mighty loss: and the government was obliged to make excessive discounts and allowances to bring treasure into the exchequer. This great loss of credit, which was like to prove fatal to our affairs abroad the last summer, arose chiefly from two things, 1. The deficiences of parliamentary funds, particularly the unhappy Project of the Land-Bank, which proved wholly abortive, and did not produce one penny of above 2½ millions with which it was charged: 2. The Recoining of our Silver. The first created trust, and the latter destroyed it, by making money to be very scarce. It is easy to imagine what perishing circumstances the nation was in, when the Notes of the Bank of England, which had been a mighty help to the public, were discounted at 20, and Tallies at 40, 50, or 60 per cent. The government had contracted a great debt; some Funds were wholly taken away, and the rest proved deficient; great numbers of Tallies were on funds very remote, and many had no funds at all.

* For an Account of his Execution, and other particulars, see State Trials, A. D. 1696.

† Life of the earl of Halifax.

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Hereby the trust and good opinion of the people were so far lost, that those few who had any money to lend, shewed the greatest backwardness imaginable to bring it into the Exchequer, when they could stock-job it to so great advantage upon the Royal-Exchange; and therefore all Loans to the government were procured on exorbitant Premiums.

"All men were amazed and confounded at this obstruction to Trade and Credit, and hardly believed that the wit of man was able to find out an expedient, that could be effectual to retrieve so great a mischief. The nation is the more obliged to the wisdom, sagacity, and eloquence of Mr. Montague, Chancellor of the Exchequer, who animated the whole design, and projected the most likely methods to bring it to a happy effect. The 25th, the commons had Resolved, 'That a Supply be granted to 'his majesty to make good the Deficiencies of 'Parliamentary Funds;' and afterwards ordered an Estimate to be laid before them, of what sums were, or would be wanting to satisfy and discharge all Principal and Interest due, or to become due on the several Aids, Duties, or funds, over and above all Arrears, standing out upon them which were determined; and besides all moneys to be raised by such as were then unexpired. And the computation of all the particular sums that were wanting to make good all the deficient funds, being made, the whole amounted to 5,160,400*l.*

Having now got to the bottom of the disease, they resolved on a thorough cure. For being sensible, that had some Deficiencies been taken care of, and others neglected, public credit must have continued lame, and the government have halted, if it had not fallen to the ground; they judged it of absolute necessity to make provision for the whole; that so there should remain no tally without a fund, nor any tally on a deficient fund, but what in its course of payment should be satisfied and discharged. In order to this, they continued divers Duties arising not only by the Customs, but by continued and additional Impositions; Paper and Parchment, Births, Marriages, and Burials, Windows, the Subsidy of Tonnage and Poundage, after the day on which they would otherwise have expired, to the 1st of August, 1706. And appointed all the Moneys which should arise, and be brought into his majesty's exchequer from any of these Taxes or Duties, from the day on which they were otherwise to expire, to the said 1st of August, 1706, to be the general Fund for making good all the deficient ones, by the satisfaction and payment of the principal and interest due, or become due thereupon. And that all occasion of complaint might be removed, and equal provision made for all, the parliament directed that all moneys arising from the duties, so as before continued and appropriated for the general fund, should be distributed and applied to pay principal and interest upon every one of the deficient funds, in proportion to the sum of which they were deficient; and that all the money which should be in such a due proportion distributed, or placed to the account of each deficient tax or fund, for the discharge of principal or interest, should be paid out to all who were entitled to receive the same, in such course and order, as if the same were moneys really arising by the respective deficient funds, and that without being diverted, misapplied, or postponed; and made the officers of his majesty's treasury liable to great penalties, in case this method were not observed. Moreover, to remove all doubts about the Security intended to be given, in case on the 1st of August, 1706, or within three months, then next ensuing, the whole produce of the several Funds and Revenues appropriated for a general Fund, together with other grants then in being, should not be sufficient to discharge the sum of 5,160,400*l.* intended to be discharged; that then what was deficient, should be made good out of such Aids or Revenues, as should be granted in the next sessions of parliament. Thus the commons, by an admirable stroke of wisdom, as well as a noble act of public justice, provided a sufficient security for this great Debt that lay heavy on the nation; which was all that could be demanded or expected, at a time when money was not in being, and therefore not to be had. And because all the branches of Public Credit did plainly depend on, and mutually support one another, the parliament took into consideration, by what means they might buoy up the Credit of the Bank of England, which was then ready to sink.

"In order to this, the parliament on Feb. 3d, agreed to augment the common capital Stock of the Bank of England, by admitting new Subscriptions; which new Subscriptions should be made good in Tallies and Bank-Notes. The proportion was four fifths of the first, and one fifth of the last, and an Interest of eight per cent. was allowed, as well for such Tallies that should be brought in, to enlarge their stock by subscription, as for those Tallies which the company was then possessed of; provided they did not exceed the value of those Bank-Notes, which should be paid in upon this engraftment on their stock; and for securing the payment of this Interest of eight per cent. The additional duty on Salt was afterwards granted and appropriated. The time of the continuance of the Bank of England, they thought fit to extend to the year 1710, and resolved likewise, that before the day was fixed for the beginning new Subscriptions, the old stock be made 100 per cent. and that what should exceed that value, should be divided among the old members: that all the Interest due on those Tallies which would be subscribed into the Bank-Stock, at the time appointed for subscriptions, (to the end of the last preceding quarter, on each tally) be allowed as principal. That liberty be given by parliament to enlarge the number of Bank-Bills, to the value of the sum which should be so subscribed, over and above the 1,200,000*l.* provided they be obliged to answer such bills at demand; and in default thereof,

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to be answered by the exchequer out of the first money due to them. That no other Bank be erected, permitted, or allowed by act of parliament, within this kingdom, during the continuance of the Bank of England. That on such new Settlement, the Bank of England be exempted from all manner of parliamentary taxes. That no act of the corporation should forfeit the particular interest of any person concerned therein. That provision be made for the effectual preventing the officers of the Exchequer, and all other officers and receivers of the Revenue, from diverting, delaying, or obstructing the course of payments to the Bank. That care be taken to prevent the abetting, counterfeiting, or forging any Bank-Bills or Notes; as likewise against the defacing, raising, or altering any indorsement upon any such Bill or Note. That the estate and interest of each member in the Stock of the Corporation, be made personal estate. And lastly, that no Contract or Agreement made for any Bank-Stock to be bought or sold, be valid in law or equity, unless the said contract be actually registered in the books of the Bank within seven days, and actually transferred within 14 days next after the making such contract. Upon which encouragements, a Million was subscribed and paid in Tallies and Bank-Notes, as the parliament had directed. This expedient was the result of Mr. Charles Montague's skill and prudence, and though many persons who were interested in it, could not presently apprehend the reasonableness of it, yet the advantages they afterwards received, did fully convince them, that no other way could have been found to call back their sinking credit: for the value of 200,000*l.* in Bank-Notes being sunk by the new Subscription, the rest, as it was reasonable to believe they would, began presently to rise in worth; and so likewise did the Tallies, after so many as amounted to 800,000*l.* were paid in to enlarge the Bank. Upon this the Credit of the Bank recovered apace, till in a short time their Notes, which bore no interest, were equal with money, and their Bills that bore interest better than money: and by this means the face of affairs was quickly much changed for the better; credit began to revive, and money to circulate on moderate terms; foreign affairs were less to our disadvantage, and soon after came to an equality: and whatever hardships the people had undergone, by reason of a long and expensive war, and the recoining the Silver-Money, which could not but occasion many complaints, yet the greatest part attributed this to the necessity of affairs, and began to hope, both from the prospect of a peace, and the wisdom of those at the helm, that they should enjoy more favourable times.

"Another evil of no less difficulty or importance than the loss of Credit, (and which, as was hinted before, was one of the springs of the latter) remained still to be removed; and that was the great scarcity of Money. The parliament, to prevent disappointments, by settling Funds which might be deficient, came to a Resolution, Nov. 20th, That the Supplies for the service of the year 1697, should be raised within the year. But how could above five millions be raised within the year, while the Silver-Money was called in, and recoining, and there was not current coin enough in the nation, to answer the occasions of Trade, and scarcely the conveniencies and necessities of life? This Vote of parliament seemed impracticable; the enemies of the government made themselves merry with it, and instead of raising their spleen, it was the entertainment of their pleasant humour: and many, even of the best friends of the government, imagined that the parliament by this, rather expressed their zeal and willingness, than their ability to support the state, and maintain the present Settlement. But this parliament, for whose wisdom it was reserved to surmount difficulties, that were looked on as invincible, made money without bullion, and distributed great quantities of coin without the help of the mint. This they did by authorizing the lords of the treasury, to issue out Bills from the Exchequer, to the value, first and last, of above two millions; which bills were first appointed to be brought in, and sunk upon the Capitation-tax. But before the session ended, the parliament being convinced by the first collection of that duty, that it would prove very deficient; they appointed the Exchequer Bills to be brought in, on any other of the king's duties or revenues, excepting the Land-Tax; and allowed an interest of 7*d.* 12*s.* per annum, upon the second issuing the said Bills out of the Exchequer, whereas at first they bore no interest. By this the parliament laid a good foundation for Paper-Money to supply the place of our Silver-Coin; for so many payments were at this time to be made into the Exchequer, that when the people had assurance given them, that the Exchequer-Notes should be received back again in payment of the king's taxes, they were very well satisfied to take them, at first indeed at a small discount, but not long after at an equality. A great number of these Notes were only for five or 10 pounds, which answered the necessity of commerce among the meaner people, for the common conveniencies of life. And that those who had advanced money on loans on any part of the king's revenues, might not be obliged to receive it back in Notes that were under the value of money, to strengthen the reputation of these bills, the parliament authorised the lords of the treasury, to contract with any corporation, or numbers of private men, and to allow them a competent præmium, provided they obliged themselves to exchange those Notes for ready money, when tendered to them for that purpose; which the lords of the treasury did accordingly. The credit of the Exchequer Notes being thus secured, they daily rose nearer to par, till at last they exceeded the value of money: and whereas the trustees, with whom the government had contracted to exchange them, were at first allowed 10 per cent. as a præmium, they were since contented

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to do it for four. These Bills passed as so many counters, which the people were satisfied to receive, because they knew the Exchequer would receive them again as so much ready money: and these state-counters so well supplied the want of money, till new coin was issued from the mint, that Trade and Commerce were maintained, and mutual payments well enough made, to answer the necessities of the government and the people. This project (which proved an effectual, though a paper-prop to support the state, when its silver pillars, if I may so speak, were for a time removed) was likewise owing to the prudence and industry of Mr. Charles Montague, as well as that of re-coining the Money; which those very men who envied most his success in the house of commons, and growing power at court, were afterwards contented to call a fortunate temerity."

Privileged Places disfranchised.] After sir J. Fenwick's business was over, the parliament, to the great satisfaction of the people, took care to remedy a Public Grievance of long standing. Several places in and about the city of London, which, in the times of the Romish superstition, were allowed as sanctuaries to criminals and debtors, had, ever since the Reformation, pretended a privilege to protect the latter; and one of these, called White Fryers, was become a notorious receptacle of broken and desperate men, in the very heart of the metropolis, whither they resorted in great numbers, and, to the dishonour of the government, and great prejudice of the people, defended themselves with force and violence against the law and public authority. This intolerable mischief the parliament redressed by an 'Act 'for the more effectual relief of creditors in 'cases of escapes, and for preventing abuses in 'prisons and pretended privileged places;' wherein such effectual provision was made to reduce those outlaws, that, immediately after the act was published, they abandoned their posts to better inhabitants.

Case of Conrade Greibe.] Dec. 8. The Committee appointed to examine the Petition of one Mary Greibe, made their Report; by which it appeared, That Conrade Griebe, husband of the said Mary, having undertaken to deliver two Petitions in behalf of certain Officers and Soldiers turned out of count Stanbock's regiment, to the king and parliament, was the day before seized by one Kitson, a messenger, by warrant from Mr. Secretary Trumball, charging him with treasonable practices: that he was kept in the said messenger's hands ten days; during which time, he had been oftentimes refused an examination: and that at last about two or three o'clock in the morning he was taken out of the custody of the said messenger by a party of the Dutch guards, who carried him on board a Dutch vessel, from whence he was conveyed to Brussels, where he was thrown into a dungeon, and is subsisted on bread and water only.

Address thereon, and the King's Answer.] Resolved, "That an humble Address be presented to his majesty, that he will be pleased to cause the Informations in relation to Conrade Greibe, to be laid before the house;" to which his majesty by message, the 23rd, returned the following Answer:

"W. *R.* His majesty having received an Address from the house, whereby it was desired that he would please to cause the Informations, in relation to Conrade Greibe, to be laid before the house, is pleased to acquaint them, that upon the discovery of the late conspiracy against his person and government, the said Greibe was taken into custody among other suspected persons, as concerned in that Plot; and about the same time, several Informations being sent and delivered to his majesty, whereby he appeared to be a very dangerous person; his majesty thought it for his safety not to suffer him, being an alien, to continue longer in this kingdom; and did order the duke of Wirtemberg, who was then going for Flanders, to transport him thither, in order to send him to the elector of Brandenburgh, his natural prince, which was done accordingly: and the said Griebe was delivered to the general of the said elector, who was by him appointed to receive him, together with the Informations."

Inquiry into the Conduct of the Fleet.] Dec. 9. The house took into consideration the Books and Papers laid before the house, relating to the Fleet; and entered upon Enquiries how it came to pass, that the French Toulon squadron was not intercepted when going into Brest: upon which vice-admiral Mitchel having been examined, and several letters to and from admiral Russel having been read, a motion was made, that Candles should be brought in, which passed in the negative, yeas 128, noes 150. Upon which, the house adjourned.

Dec. 20. The engrossed Bill for further regulating Elections being read a third time, an engrossed Proviso was offered and agreed to, to render any Merchant, being a natural-born subject of England, eligible, on his making oath, that he is worth 5,000*l.* in real and personal estate: but no person to be esteemed a Merchant, for having money in the Bank, or any other Company. The question being then put, that the bill do pass, it passed in the affirmative, Yeas 200, Noes 160.

Report of the Committee upon the Abuses of Prisons.] Dec. 30. Mr. Pocklington, from the Committee on the Abuses of Prisons, &c. among a variety of other matter, reported to the house, "That one Brunskill a solicitor, had informed the said Committee, that Tilly (who had lately procured an act of parliament to enable Bromshall, an infant, to sell his interest in the Fleet-prison; which he, Tilly, had purchased) as he was informed, should say, That he obtained that act by Bribery and Corruption.—That one Mrs. Hancock applying to Tilly not to protect one Guy, being his Clerk of the Papers, because he was perjured, &c. Tilly refused her request: upon which, being

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asked how he would do, if the matter should be laid before parliament? he replied, he could do what he would there; that they were a company of bribed villains; that, to his knowledge, they would all take bribes; and that it cost him 300*l.* for his share, and 300*l.* for the other shop (meaning the King's-bench) for bribing a Committee last parliament.—That she then, intimating that she must then apply to the house of lords; he answered, it was only palming five or six talking lords, and they would quash all the rest. And she then said, she would try the king and council; he added, the best of the Lord-Keeper's fees were from him: That as to the Judges, they were all such a parcel of rogues, that they would swallow his gold faster than he would give it them; and that as to the members of the house of commons, they were many of them members of his house.—That several other persons had charged him with other particulars of the like nature. And that the said Tilly, to invalidate their testimony, had insisted they were persons of bad character, and in a confederacy against him, &c."

Ordered, That John Tilly, esq. be taken into the custody of the serjeant at arms.

Jan. 5, 1696-7. The said Mr. Pocklington from the said committee likewise reported, That it was proved to them by two witnesses that one Francis Duncomb had likewise reported, that he had distributed money to several members.

Ordered, That the said Francis Duncomb be taken into the custody of the serjeant at arms.

On the 27th a motion being made for reading the Report delivered in by the Committee on the Abuses of Prisons, it passed in the affirmative, Yeas 152, Noes 107. Accordingly, the said report was read, and Mr. Tilly being brought to the bar to make his Defence, he desired further time, and the house proceeded to take further Informations; on which occasion several witnesses added yet farther particulars to his charge, and several endeavoured to prove that he was innocent of all: and that as it had been before urged, those who accused him were prejudiced persons, and had entered into a conspiracy against him; of which many instances were enumerated before the house. The whole affair ended in ordering the said Report to be delivered to the Attorney-General and Solicitor-General, and that they do take care to prosecute the persons concerned for the crimes therein mentioned.

Orders for dispersing a Mob.] Jan. 21. A tumultuous crowd of people filling all the passages to the house, and clamouring to have the Bill passed for restraining the Wear of East-India-Silks; orders were given to the Justices to disperse them: and it was resolved, "That the inciting and encouraging any number of persons to come in a riotous manner, either to hinder or promote the passing any Bill depending before this house, being against the constitution and freedom of parliament, is a high crime and misdemeanour."

Votes relating to the Newfoundland Trade.] Jan. 28. The Committee appointed to examine several Petitions relating to the Newfoundland Trade, having made their Reports, the house agreed with the said Committee to the following Resolutions:

"That the Trade to Newfoundland doth very much promote navigation, increase seamen, and is of great profit to this nation, and of advantage to us in the balance of trade. That the great losses sustained in the Newfoundland Trade were occasioned through want of a sufficient number of men of war, to secure its harbours, and to protect the fishery. That an humble Address be presented to his majesty, that a competent number of men of war and land forces be sent as soon as conveniently may be to regain the lost harbours in Newfoundland, to cruize on that coast, to guard the fishery, and annoy the enemy trading to those parts."

Jan. 29. The committee appointed to make Enquiry into the causes of the late Tumults, having made their Reports, a motion was made, and the question put, That Gabriel Glover, for speaking scandalous words of this house and their proceedings, be taken into the custody of the serjeant at arms; it passed in the Negative.—Ordered, That the said question be not printed.

The Printer of the Flying-Post ordered into Custody; and a Bill to restrain the Press rejected.] The next business of importance was to retrieve and maintain the Public Credit; and to supply the Want of Money by the currency of Exchequer-Bills, and to support the Bank of England: the Commons were so intent upon these wise ends, that when in a Paper, entitled the Flying-Post, published on Thursday April the 1st, there was this Advertisement: 'We hear, that when the Exchequer-Notes are 'given out upon the Capitation-Fund, whoso-'ever shall desire Specie on them, will have it 'at 5½ per cent. of the society of gentlemen 'that have subscribed to advance some hun-'dred thousands of pounds.' They voted this passage to be a malicious insinuation, in order to destroy the credit and currency of the Exchequer-Bills. They ordered the printer, John Salisbury, to be sent for in custody: And gave leave to bring in a Bill, to prevent the writing, printing, or publishing any news without licence. And yet when such a Bill was presented by Mr. Pulteney, it was thrown out before a second reading.*

The King's Speech at the close of the Session.] April 16. His majesty came to the house of lords, when, after having given the royal assent to several Bills, he made this Speech to both houses:

*About this time a small Tract was published, intitled, "A Letter to a Member of Parliament, shewing that a Restraint on the Press is inconsistent with the Protestant Religion and dangerous to the Liberties of the Nation;" for a copy of which, see Appendix No. XIII.

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"My lords and gentlemen; Having given my assent to the several Bills you have presented to me, I am now to return you my hearty thanks for what you have done this session; which has been carried on with great prudence, temper, and affection.—At the opening of the session, I told you how sensible I was of the difficulties to be struggled with, which were of such a nature, that I will freely own, the hopes I had of our being able to overcome them, were founded only upon the wisdom and zeal of so good a parliament.—My expectation has been fully answered; you entered upon the business with so much chearfulness, proceeded so unanimously, and have at last brought things to such a conclusion, that we may hope to carry on the War with success, in case our enemies do not think it their interest to agree to an honourable peace: And so effectual a provision being made for supplying the Deficiences of former Funds, (which is the best foundation for re-establishing of Credit) I doubt not but in a short time it will have a very happy effect, to the universal ease and satisfaction of my people.—The circumstances of affairs making it necessary for me to be out of the kingdom for some time, I shall take care to leave the administration of the government, during my absence, in the hands of such persons as I can depend upon.—My lords and gentlemen; I have nothing more to ask of you, but that you would carry down the same good disposition into your several countries, which you have expressed in all the proceedings of this session."

And then the parliament was prorogued to the 3d of December.

On the 26th, his majesty embarked for Holland; having a few days before created the new lord chancellor Somers baron of Evesham, in the county of Worcester: and Edward Russel, esq. the admiral, baron of Shingey, viscount Barfleur, and earl of Oxford, in the county of Suffolk.—During the recess, a Congresss was opened at Ryswick for a general Peace, and Preliminaries were agreed upon; but many difficulties arising, the earl of Portland demanded a private conference with marshal Boufflers, which was agreed to and held in the open field, at an equal distance from the two camps; after which they retired to the suburbs of Hull, and in one hour adjusted all which, at Ryswick, had hitherto been found insurmountable. This was done July the 26th.

THIRD SESSION OF THE THIRD PARLIAMENT OF KING WILLIAM III.

The King's Speech on opening the Session.] Dec. 3. The parliament met at Westminster, and the King made this Speech to the two houses:

"My lords and gentlemen; The War which I entered into by the advice of my people, is by the blessing of God, and their zealous and affectionate assistance, brought to the end we all proposed, an honourable Peace; which I was willing to conclude, not so much to ease myself from the trouble or hazard, as to free the kingdom from the continuing burthen of an expensive war.—I am heartily sorry, my subjects will not at first find all that relief from the Peace, which I could wish, and they may expect; but the Funds intended for the last year's service, have fallen short of answering the sums for which they are given; so that there remain considerable Deficiences to be provided for.—There's a Debt upon the account of the Fleet and the Army. The Revenues of the Crown have been anticipated by my consent, for public uses; so that I am wholly destitute of means to support the Civil-List; and I can never distrust you will suffer this to turn to my disadvantage, but will provide for me, during my life, in such a manner, as may be for my honour, and for the honour of the government.—Our Naval force being increased to near double what it was at my accession to the crown, the Charge of maintaining it will be proportionably augmented; and it is certainly necessary for the interest and reputation of England, to have always a great strength at sea.—The circumstances of affairs abroad are such, that I think myself obliged to tell you my opinion, that, for the present, England cannot be safe without a Land-force; and I hope we shall not give those who mean us ill, the opportunity of effecting that, under the notion of a peace, which they could not bring to pass by a war.—I doubt not but you, gentlemen of the house of commons, will take these particulars into your consideration, in such a manner as to provide the necessary Supplies, which I do very earnestly recommend to you.—My lords and gentlemen; That which I most delight to think of, and am best pleased to own, is, that I have all the proofs of my people's affection, that a prince can desire; and I take this occasion to give them the most solemn assurance, that as I never had, so I never will, nor can, have any interest separate from theirs. I esteem it one of the greatest advantages of the Peace, that I shall now have leisure to rectify such Corruptions or Abuses as may have crept into any part of the administration during the War; and effectually to discourage Prophaneness and Immorality: and I shall employ my thoughts in promoting Trade, and advancing the happiness and flourishing estate of the kingdom. I shall conclude with telling you, that as I have, with the hazard of every thing, rescued your Religion, Laws and Liberties, when they were in the extremest danger; so I shall place the glory of my reign in preserving them entire, and leaving them so to posterity."

The Commons' Address.] Dec. 9. The commons presented this humble Address to the king:

"We your majesty's most dutiful and loyal subjects, the Commons in parliament assembled, who have so frequently waited on your majesty with the tender of our assistance for carrying on the War, come now to congratulate your majesty upon the happy conclusion of it, in a Peace so honourable and advantageous to

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the nation, as sufficiently justifies the wisdom of the Commons in advising, and your majesty's conduct in the prosecution of it.—The prospect of the benefits your people will receive from this Peace, is very pleasing. The honour your majesty has restored to England, of holding the Balance of Europe, gives your subjects great content. But what your Commons are most affected and delighted with, is, that your majesty's sacred person will now be secure, from those many and great dangers, to which you have so often exposed it for our sakes: nothing being so evident, as that your majesty's return in safety, was a blessing more welcome to your people than Peace, and received with greater demonstrations of joy. We therefore with hearts full of affection, duty, and gratitude, do assure your majesty in the name of all the Commons of England, that this house will be very ready to assist and support your majesty, who, by putting a period to the War, has confirmed us in the quiet possession of our Rights and Liberties, and so fully completed the glorious Work of our Deliverance."

The King's Answer.] The king answered thus:

"Gentlemen; Nothing that relates to the Peace pleases me so much, as the satisfaction you have in it: and as you have assisted me in the War, beyond all expression, I do not doubt, but you will be as zealous in maintaining the Peace."

The Commons resolve to disband the Army.] Standing forces, however established and regulated by law, or however necessary to maintain the peace, were thought intolerable; and therefore upon entering into a consideration of his majesty's Speech, the first Resolution of the Commons, was on Dec. 11, "That all the Land Forces* of this kingdom, that have been raised since the 29th of Sept. 1680, shall be paid and disbanded." The friends of the king and his government had argued, that the nation was still unsettled, and not quite delivered from the fear of king James; that the Adherents to that abdicated prince, were as bold and numerous as ever; and he himself still protected by the French king; who, having as yet dismissed none of his troops, was still as formidable as before. That if our Army was entirely disbanded, the Peace which was obtained at the expence of so much blood and treasure, would be altogether precarious: And not only England, but all Europe lie once more at the mercy of that ambitious monarch, an inveterate enemy to king William, the Protestant Religion, and the Liberties of Christendom. On the other hand, the Country Party, who valued themselves upon opposing any motions of the Court; the disaffected Party, who never heartily approved the Revolution; the Commonwealth Party, who were secretly driving at a change of government into their own scheme and interest; and even many worthy patriots, who had no worse view than the Rights and Liberties of their country: all, upon different thoughts, agreed in the same aversion to a Standing Army, and laboured to represent it as absolutely destructive to the constitution of the English government. And it was no wonder that their objections prevailed when they were more popular, and had this weight in them, that standing forces would want a continual tax; and disbanding would relieve the people from the burthen of the war, which they would never be willing to bear in a time of peace. The king hoped that he had prevented the warmth of these Debates at his last coming over, when he had caused several regiments of horse, dragoons, and foot to be disbanded; and even others to be reduced, and sent away (most of them) either to Scotland or Ireland. And therefore he resented it as the greater hardship upon him, that he must have no troops remaining, but be left so naked and exposed, as if the Peace were only to encourage his enemies to surprize him with another war.

The Commons however persisted in their Resolutions of disbanding; but to make it the more palatable, they passed a Vote, Dec. the 13th, "That it be an instruction to the Committee who were to consider of the Supply, that they should likewise consider of a Gratuity, to be given to such Officers and Soldiers of the English Army who were or should be disbanded." And, at the same time, ordered Mr. Hammond and Mr. Moyle to bring in a Bill, to enable Soldiers who should be disbanded, to exercise their Trades in any town or corporation throughout this kingdom; and, to provide for the security of the kingdom, when the Army should be disbanded. On Dec. 17th, they appointed several members to prepare and bring in a Bill, to regulate the Militia, and make them more useful. And on Dec. 18th, they Resolved, "That 10,000 men are necessary for a Summer and Winter-Guard at Sea, for the year 1698."

The Supply taken into Consideration; a Civil-List of 700,000l. settled on the King for Life.] Dec. 20. The Commons took the Supply into consideration, and resolved, "That in a just sense and acknowledgment of what great things his majesty has done for these kingdoms, a sum not exceeding 700,000*l.* be granted to his majesty during his life, for the Support of the Civil-List."

Sums granted, and for what Uses.] January 14, 1697-8. The Commons agreed to the Resolutions which had been taken in a grand committee about the Supply; "1. That a Sum not exceeding 350,000*l.* be granted to his majesty, for maintaining Guards and Garrisons for the year 1698. 2. That a Supply be granted to his majesty, which, together with the Funds already settled for that purpose, should be sufficient to answer and cancel all Exchequer-Bills, issued or to be issued, not exceeding 2,700,000*l.* 3. That a Supply be granted to his majesty, for the speedy paying and disbanding the Army." And then they ordered, That a Bill

* The army then consisted of 17,656 foot, and 6,876 horse and dragoons.

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be brought in for reducing the Discount upon Exchequer-Bills, and giving them a better Currency.

Bounties granted to disbanded Soldiers.] January 18. They came to the following Resolutions. 1. "That upon Disbanding the Army, over and above what is due to them, there be allowed by way of Bounty, 14 days Subsistence to each foot soldier and non-commission officer; and to each foot-soldier 3*s.* more, in lieu of his sword, which he is to deliver up. 2. That upon disbanding the Army, over and above what is due to them, there be allowed by way of Bounty, six days full pay to each private trooper and non-commission officer of the horse and dragoons. 3. That, out of the Supply to be granted to his majesty, the Sum of 250,000*l.* be allowed upon Account, towards defraying the charge of disbanding the private troopers, and centinels, and non-commission officers, of the horse, dragoons, and foot. 4. That Provision be made for giving half-pay to the commission officers, (his majesty's natural-born subjects of England) till the said officers shall be fully paid off and cleared, and be otherwise provided for."

Deficiencies made good.] Jan. 22. The Commons resolved to make good the Deficiencies of former funds; and therefore, voted the Sum of 407,000*l.* for making good the Deficiency of the Aid of 3*s.* in the pound, granted to his majesty the last session of parliament; and 940,000*l.* for making good the Deficiency of the Subsidies, and other Duties granted at the same time; and 129,000*l.* for making good the Deficiency of the Aid of 1*s.* in the pound. And they ordered a Committee to consider of Ways and Means for making good the said Deficiencies. On Feb. 1st, having taken the Arrears of the Army into consideration, they resolved, That the Sum of 1,251,000*l.* was necessary to clear the Arrears of Pay, due to the Land Forces, according to the Establishment from the 1st of April 1692, to the last of Sept. 1697, besides 940,815*l.* for Subsistence, 28,295*l.* for Contingencies, 5,000*l.* for the General-Officers, and 75,000*l.* for the Guards and Garrisons; in all 2,348,102*l.* And that there was but 855,502*l.* remaining in the hands of the paymaster of the army, the 1st of Jan. 1697-8.

Three Shillings in the Pound laid upon Land.] Feb. 9. To raise the sums which the parliament had voted necessary for disbanding the Army, paying of Seamen, and towards making good of Loans, and the Deficiencies of former Funds; they resolved to lay an Aid of 3*s.* in the pound upon land, by way of Assessment upon every county, in proportion to the rates of the first 4*s.* Aid granted in 1691, by which means they prevented any future Deficiency of this fund.

Sums voted to Foreign Princes.] The next day, they considered the Account of what was due to some of his majesty's Allies, both for Arrears of Subsidies, and for payment of Auxiliaries; and Resolved, That 180,000 rix-dollars were due to the elector of Brandenburgh; 250,000 to the landgrave of Hesse-Cassel; 121,223 to the duke of Wolfenbuttle; 149,097 to the bishop of Munster; 50,000 to the duke of Hanover and Zell; 25,000 to the duke of Holstein, and 200,000 to the king of Denmark, both upon the fore-mentioned Account, and in consideration of an entire prohibition of commerce between that crown and France. They also resolved, That there was due the sum of 177,000*l.* to the contractors for Bread and Forage. Four days after, they further examined into the Debt of the Nation, and resolved, That the sum of 1,392,742*l.* was due upon the several Heads of the Estimate of the general Debt of the Navy; 204,157*l.* to the Office of Ordnance; 340,708*l.* for Transports for reducing of Ireland; 125,785*l.* for other Transport-service; and 49,929*l.* for quartering and cloathing the Army raised by act of parliament in 1677, and disbanded by another act in 1679.

Order of Paying off all Arrears of Debt.] It being impossible for the nation to acquit this vast Debt at once, the Commons resolved to do it by degrees; and therefore voted, 1. "That the Debt due for clearing the Army, from the 1st of April 1692, to the last day of Sept. 1697, amounting to 1,254,000*l.* be raised in the year 1698, which would clear the army to the 1st day of April, 1698. 2. That the Sum of 203,450*l.* be raised for the clearing the Arrears of Subsistence to the Troops in England, between the 1st of Jan. 1696, and the 1st of August, 1697. 3. That 450,816*l.* be raised for clearing the Arrears of Subsistence to the Troops in Flanders, to the 4th of Oct. 1697. 4. That 50,000*l.* be raised for the General-Officers. 5. That 137,990*l.* be raised for clearing the Arrears of Subsistence, due to the troops in Flanders, from the 4th Oct. 1697, to the last of Dec. 6. That 1,100,117*l.* be raised for the Navy; viz. 100,000*l.* for Wear and Tear; 600,000*l.* for Seamens-Wages, in part of 1,862,849*l.* due on that score; 16,389*l.* due to the Registered-Seamen; 24,000*l.* for the salaries of the commissioners of the Admiralty, and other officers, and for Contingencies; 28,663*l.* for Half-pay Sea-Officers; 90,073*l.* for Pensions to superannuated Sea-officers and Widows; 15,927*l.* for the charge of the Yards; 848*l.* for the Muster-masters of the Out-ports; 43,399*l.* for Wages to ships and vessels in Ordinary; 19,608*l.* for Victuals of the ships in Ordinary; 32,558*l.* for Harbour-moorings; 35,848*l.* for Ordinary Repairs of the Navy; 55,520*l.* for the two Marine Regiments; and 37,286*l.* for the charge of the Office for Registering Seamen. 7. That 60,000*l.* be allowed for the Ordnance. And 8. That Provision be made towards payment of the principal and interest of the Transport-debt." All which sums they resolved to raise in the year 1698.

Enquiry into the False Endorsements on Exchequer-Bills: and Duncomb and Knight, two Members, expelled and imprisoned for the same.] The false Endorsement of Exchequer-Bills was such a scandalous practice, that it

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took up much of the Commons time to enquire into it, and reform it. These Exchequer Bills were of mighty use in the nation, by supplying the Scarcity of Money during the Re-coining of the Silver Species. Now, because there was an interest of 7*l.* 12*s.* per annum allowed upon the second issuing the said Bills out of the Exchequer, after they had been paid in, on any of the king's taxes; whereas at their first issuing out of the Exchequer, they bore no interest; this encouraged several of the king's officers, both in the Exchequer, the Customs, and the Excise, to contrive together to get great sums of money by false Endorsements on these Exchequer Bills, before they had circulated about, and been brought into any branch of his majesty's revenue. The most considerable persons that had carried on this unwarrantable practice, were Mr. Charles Duncomb, receiver-general of the excise; Mr. John Knight, treasurer of the customs; Mr. Bartholomew Burton, who had a place in the excise-office; and Mr. Reginald Marryot, one of the deputy-tellers of the exchequer; which last, to get his pardon, compounded to accuse the rest. Upon a full proof of the matter, Duncomb and Knight, who were Members of the house of commons, were first expelled the house, and committed prisoners to the Tower; Burton was sent to Newgate, and Bills were ordered to be brought in to punish them. The Bill against Mr. Duncomb, whereby a fine of nearly half his estate, (which at that time was judged to be worth 100,000*l.*) was set upon him, did quickly pass the commons, notwithstanding the opposition that was made to it, particularly by the Attorney-General: but being sent up to the Lords, and their lordships being equally divided, the duke of Leeds gave his casting vote for the rejecting of the Bill. It was then the common report, that Mr. Duncomb dispelled the impending storm by a golden sacrifice; which however history cannot relate as a truth, because it never came to public notice: but we must not pass over in silence, that Mr. Duncomb being set at liberty by the order of the house of lords, without the consent of the commons, the latter resented it to that degree, that they caused him to be remanded to the Tower of London, where he continued to the end of the session. The Bills against Knight and Burton had the same fate; and so all those threatning clouds that seemed ready to crush the false endorsers, spent themselves in vapour and noise.

A Bill of Resumption ordered.] The Commons did this year design to apply part of all the Forfeited Estates to the use of the public; in order to which, they enquired into the Grants made by king Charles 2. and king James 2. and ordered a Bill to be brought in to make them void. Afterwards, they examined the Grants made by his present majesty in Ireland; and because a Grant was found made to Mr. Railton, which Mr. Montague, Chancellor of the Exchequer, owned to be for his benefit, a warm debate arose thereupon; and the enemies of the latter, who were not few, moved, that he should withdraw; which passing in the negative, it was resolved by a great majority, "That it was the opinion of this house that the hon. Charles Montague, esq. chancellor of the exchequer, for his good services to this government, did deserve his majesty's favour."

The Commons' Address to put the Laws in force against Profaneness and Immorality.] Feb. 9. A Committee of the commons was appointed to draw up an humble Address to his majesty, upon the debate of the house, to suppress Profaneness and Immorality, and all Books which endeavour to undermine the Fundamentals of the Christian religion, and to punish the authors. So that on the 17th, this Address was presented to the king by the whole house:

"May it please your majesty, We your majesty's most dutiful and loyal subjects, the Commons in parliament assembled, do with great joy and comfort remember the many testimonies which your majesty has given us of your sincerity and zeal for the true Reformed Religion, as established in this kingdom: And in particular, we beg leave to present to your majesty our most humble and thankful acknowledgments, for the late gracious Declaration your majesty has made to us from the throne, that you would effectually discourage Profaneness and Immorality, which, chiefly by the neglect and ill example of too many magistrates, are, like a general contagion, diffused and spread throughout the kingdom to the great scandal and reproach of our Religion, and to the dishonour and prejudice of your majesty's government.—Therefore in concurrence with your majesty's pious intentions, we do most humbly desire, that your majesty would issue out your royal Proclamation, commanding all your majesty's Judges, Justices of the peace, and other Magistrates, to put in speedy execution those good laws that are now in force against Profaneness and Immorality, giving due encouragement to all such as do their duty therein: And that your majesty would be pleased to require from your Judges and Justices of Assize, from time to time, an account of such their proceedings.—And since the examples of men in high and public stations have a powerful influence upon the lives of others, we do most humbly beseech your majesty, that all Vice, Profaneness and Irreligion, may in a particular manner be discouraged, in those who have the honour to be employed near your royal person; and in all others who are in your majesty's service, by sea and land; appointing strict orders to be given to all your Commanders that they do not only shew a good example themselves, but also inspect the manners of those under them; and that your majesty would upon all occasions distinguish men of piety and virtue, by marks of your royal favour.—We do further in all humility beseech your majesty that your majesty would give such effectual orders, as to your royal wisdom shall seem fit, for the suppressing all pernicious

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Books and Pamphlets, which contain in them impious doctrines against the Holy Trinity, and other fundamental Articles of our Faith, tending to the subversion of the Christian Religion, and that the Authors and Publishers thereof may be discountenanced and punished.—And we do also most humbly beseech your majesty, that your said proclamation may be ordered to be read at least four times in the year, in all Churches and Chapels, immediately after divine service: and at the Assizes and Quarter-Sessions of the Peace, just before the Charge is given.—We present to your majesty this our most humble Address, proceeding from our duty and zeal for the glory of God, and to the end that all our councils may be blessed by his divine assistance, and may produce honour, safety and happiness, with all the blessings of a lasting peace to your majesty and your people."

The King's Answer.] His majesty received this Address with satisfaction, and gave this Answer:

"Gentlemen, I cannot but be very well pleased with an Address of this nature; and I will give immediate directions in the several particulars you desire: But I could wish some more effectual provision were made, for the suppressing those pernicious Books and Pamphlets which your Address takes notice of."

An Act for suppressing Atheism, &c.] Feb. 26. Upon this intimation of his majesty, leave was given, to bring in a Bill or Bills, for the more effectual suppressing Profaneness, Immorality, and Debauchery. In the mean time, an ingrossed Bill from the lords came down to the commons, entitled, 'An Act for the more effectual suppressing of Atheism, Blasphemy and Profaneness:' which, being committed at the second reading to a committee of the whole house, was, after some amendments and confederences, (on certain points contained in it, which affected the Jews) agreed to. And in the mean time, his majesty in immediate compliance to the request of the Commons published a Proclamation for preventing and punishing Immorality and Profaneness.

The Earl of Macclesfield's Case.] The stream of the public business, during this session, appears to have run principally through the house of commons, insomuch that, till the Case of the earl of Macclesfield came to be argued, we met with nothing of moment in that of the peers.—It appears that, during the residence of the said earl abroad, his lady retired from his father, where she had been left, to her own mother's, lady Mason; which so far irritated her lord, that when he returned, he did not think proper to invite her back: She thinking herself, therefore, at liberty, admitted the addresses of another earl (Rivers,) the consequence of which were two children, a daughter and a son. Of this her husband being apprized, his lordship applied himself to his peers for a remedy, which nothing but a parliament could give; all the relief which he could expect from a Sentence in Doctors Commons being no more than that state of separation, in which he and his lady had long lived. He alledged that it is evident, that the Divine Law admits of second marriages in such cases; and that there had been acts of parliament for them, as well as for bastardizing spurious issue: That those Canons which have prohibited second Marriages in like case, were so manifestly an effect of the popish doctrine of Marriage being a Sacrament, and of the avarice of the court of Rome, to get money for dispensing with them, that in the Reformation of ecclesiastical laws, prepared and intended in the time of Edw. 6, in pursuance of an act of parliament of Henry 8, there was express liberty given, by those Canons, to marry again; which, by virtue of that act of parliament, would have become a general law, or at least have occasioned one: That whatever objection might be against such a general law, from the temptation it might give ill people to seek groundless dissolutions of marriages: yet, upon extraordinary cases, such as this was, such relief had been granted; and where it had been denied, either the fact was not fully proved, or the parties had cohabited, or, after the grounds of dissatisfaction had been reconciled: That if in such a concurrence of circumstances, as were in his case, he must still be thought to have a wife, and the children she had must be looked upon as his, from the common presumption, till contrary proof, in that they were born within the four seas; besides, that it could not but be too great an encouragement to women, to make an ill use of a separate maintenance, which is provided for in most marriage settlements; it would be a most unreasonable hardship upon him, that the standing law which is designed to do every man right, should, by the rigour of the letter, be to him the cause of the greatest wrong; and that for his wife's fault he should be deprived of the common privilege of every freeman in the world, to have an heir of his own body, to inherit what he possest, either of honour or estate; or that his only brother should lose his claim to both, and have his birthright sacrificed to the lady Macclesfield's irregular life.

While this affair was depending in the Spiritual Court, the lady Macclesfield insisted upon her innocence, and her agents industriously spread a report, that the earl her husband had been surprised into a private meeting with her, by a woman of intrigue. But, this story being confuted by the earl's positive evidence to the contrary, she gave up that point, and only endeavoured to make her husband the author of her miscarriages. She alledged, that the late earl of Macclesfield, her father-in-law, had turned her out of doors: That the present earl notwithstanding the obligation she had laid upon him, by petitioning king James for his life, had maliciously secluded her from bed and board. And therefore, if the lords thought fit to pass this Bill of divorce, she demanded her fortune to be refunded, both because a divorce dissolves the whole frame of the marriage contract, and because it were the highest injustice, that a man, who was guilty of making his wife

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commit adultery, should be rewarded out of the same wife's fortune. This affair occasioned great debates in the upper house; some peers representing the danger of granting divorces; and others, amongst whom Dr. Burnet, bishop of Salisbury, spoke the longest, shewing the necessity and lawfulness of such extraordinary proceedings in some particular cases. Upon the whole matter, the lords passed a Bill 'for dissolving the Marriage between Charles earl of Macclesfield and Anne his wife, and to illegitimate her children;' but with a Proviso, that the earl should refund her fortune. This Bill being sent down to the commons, the parties concerned were both heard by their counsel; but, notwithstanding the lady Macclesfield's opposition, the Bill was read the third time, and passed without any amendment, and received the royal assent.

Impeachment of Goudet and others of High Crimes and Misdemeanors.] May 16. The following Articles of Impeachment were read and agreed to: viz.

ARTICLES OF IMPEACHMENT, exhibited by the knights, citizens, and burgesses, in parliament assembled, in the name of themselves, and of all the commons in England, against John Goudet, David Barrau, Peter Longueville, Stephen Seignoret, Rene Baudovin, Nicolas Santini, and Peter Diharce, merchants, and John Pierce, gentleman, in Maintenance of the several Impeachments against them, for High Crimes and Misdemeanors:

I. "That the said John Goudet, David Barrau, Peter Longueville, Stephen Seignoret, Rene Baudovin, Nicolas Santini, Peter Diharce, and John Pierce, not weighing or considering the protection and privileges they have enjoyed under this government, nor any ways regarding the many good and wholesome laws and statutes, made for the encouraging the manufactures, and preventing the exportation of the Coin and Wool of this kingdom, and the holding Correspondence with France, during the late War; but minding and intending, for their own private lucre and advantage, to render all those good and beneficial laws of no force or effect; did, between the 24th of August 1689, and the 10th of Sept. 1697, associate, combine, and confederate, with John Dumastre, Francis Grubert, Theodore Holtzine, —— Boutandon, Thomas Hatton, Peter Baraillaw, Peter Guree, Antony Didier, Dinah Mason, Joseph Buckley, Edw. Singleton, John Corbusier, Wm. Wragg, —— Hart, —— Toms, —— Ripper, Arthur Goodwyn, Ferdinand Ravaud, Gospard Bedfort, Barth. Middy, John Gairalt, Peter Debilly, John Aurioll, Isaac Aurioll, Peter Monbrown, Mrs. Parthon, John Descine, Peter Du Livier, John Pancier, Henry Collins, —— Smith, —— Phillips, John Guygier, Mrs. Poole, William Wade, Roger Beart, Matthew Scaulding, Francis Neave, Thomas Dewy, —— Mandre, and —— Fowsey, and divers other evil-disposed persons, to carry on a Traffic with France, during the late War; thereby to exhaust the treasure of this nation, to lessen the value of the native commodities, and to destroy the manufactures thereof, to the general detriment of this kingdom.

II. "That, to compass and effect these their pernicious designs and intentions, they the said John Goudet, &c. did, during the said War, set up, and carry on, a Correspondence with several persons in France, and give intelligence to the enemy, of the state and condition of this realm.

III. "That they the said John Goudet, &c. did, during the said War, import, and cause to be imported, into this kingdom, several great quantities of goods and commodities, of the growth, product, and manufacture of France.

IV. "That they the said John Goudet, &c. by the same vessels which imported the said French goods, did export, and cause to be exported, and carried into France, great quantities of the wool grown in this kingdom.

V. "That they, the said John Goudet, &c. by themselves, their agents, and confederates, did privily convey, and cause to be conveyed, from justice, divers criminals out of this kingdom.

VI. "Whereas a very beneficial manufacture of alamodes and lustrings hath, of late, been set up within this kingdom, whereby many thousands of people were employed and maintained; for the encouragement whereof, and preventing the fraudulent importation of French alamodes and lustrings, divers good and wholesome laws have been made, That no person should presume to deal in black alamodes or lustrings, not having the mark or seal on them, used for foreign goods at the custom-house, or the seal and mark used by the lustring company; they the said John Goudet, &c. for the more easy vending and uttering the alamodes and lustrings, which they had so fraudulently imported from France, did make and counterfeit, and cause to be made and counterfeited, divers seals and marks, in imitation of the said seals and marks used for foreign goods at the Custom-house; and did affix several of the said counterfeit seals and marks to divers pieces of alamodes and lustrings imported from France, as aforesaid.

"All which said crimes and offences were contrived, committed, perpetrated, and acted, against his majesty, his crown, and dignity; and the said John Goudet, &c. did severally, voluntarily, and wilfully, contrive, commit, perpetrate, and act, the said crimes and offences, contrary to the duty of their allegiance, and against the peace of our sovereign lord the king, his crown and dignity, and to the common nuisance of all his majesty's liege people, and against the good and welfare of the whole kingdom, and in open violation of, and contrary to, the known laws and statutes of this realm.

"And the said knights, citizens, and burgesses, by protestation, saving to themselves the liberty of exhibiting, at any time hereafter,

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any further Articles, or other Accusation or Impeachment, against the said John Goudet, &c. and every of them; and also of replying to the Answers that the said John Goudet, &c. and every of them, shall make unto the said Articles, or any of them; and of, or in proof of, the premises; or any other Articles, Impeachments, or Accusations, that shall be exhibited by them, as the cause shall, according to the course of parliament, require; do pray, that the said John Goudet, &c. be put to answer the said Crimes and Misdemeanors; and that such Proceedings, Examinations, Trials, and Judgments, may be upon the said John Goudet, &c. and every of them, had and used, as is agreeable to law and justice."

Issue of the said Impeachment.] The above Articles having been carried up to the lords, Goudet and the rest put in their Answers, and the Committee of the house of commons made their Replications; a great dispute arose between both houses; the lords insisting, That the Trials should be at the bar of their house, where the Committee of the commons must have stood; and the commons, on the other hand, insisting upon their having a convenient place appointed for the managers of the Impeachments against the prisoners, whereby they might be the better enabled to make good their charge against them: this gave occasion for a Conference, which being ineffectual to accommodate the matter, the commons resolved, That they would be present at the Trials, as a Committee of the whole house, in regard the affair was of great consequence to the Trade of the kingdom: Whereupon the lords acquainted the commons, that they would proceed upon the Monday following upon the Trials in Westminster, where seats would be provided for both houses. All this while the persons accused had conceived no small hopes of impunity, from the disagreement between lords and commons; but when they saw that matter adjusted, eight of them confessed themselves guilty: whereupon the commons went up to the bar of the lords house, and their Speaker, in their name, having demanded judgment against the said offenders, the lords imposed a Fine of 10,000*l.* upon Stephen Seignoret; of 3,000*l.* on Rhene Baudoin; of 1,500*l.* on John Goudet and Nicholas Santini; of 1,000*l.* on Peter Dihearce, John Pierse, and John Dumaistre; and of 500*l.* on David Burreau; and ordered, that they should be imprisoned in Newgate, until they had paid their respective fines. And, lest any favourite should be gratified with these sums, the Commons addressed his majesty, That they might be appropriated to Greenwich hospital, which his majesty ordered to be done accordingly.

The Dispute between the two East India Companies.] May 4. The great Case of the East India Company, (which had been depending many years, and because of its intricacy, had been first referred by the parliament to the king, and by them back to the parliament again,) was taken into consideration by the house, but we have postponed the proceedings on that article till now, for the sake of giving it to the reader entire, as follows:

The old Company having offered to advance 700,000*l.* at 4 per cent. for the service of the government, in case the Trade to India might be settled on them exclusive of all others, the house seemed inclined to embrace their Proposal; when another number of Merchants, of whom one Shepherd was the chief, and who were protected by Mr. Montague, Chancellor of the Exchequer, proposed to the house to raise two millions at 8 per cent. on condition the Trade to India might be settled on the Subscribers, exclusive of all others: they also proposed that these Subscribers should not be obliged to trade in a joint stock; but if any members of them should afterwards desire to be incorporated, a Charter should be granted to them for that purpose. The house judged this new overture not only to be more advantageous to the Government, but likewise very likely to settle this controverted trade on a better foundation than it was on before.

A Bill was therefore, on May the 26th, ordered to be brought into the house, for settling the Trade to the East Indies on those who should subscribe the two millions, according to the limitations before-mentioned, and the following resolutions: 1. "That every Subscriber might have the liberty of trading yearly, to the amount of his respective Subscription; or might assign over such his liberty of trading to any other person. 2. That his majesty be empowered to incorporate such of the said Subscribers, as should desire the same. 3. That the powers and privileges for carrying on the East India Trade, should be settled by parliament. 4. That the said Subscribers should enjoy the said 8*l.* per cent. and liberty of trading to the East Indies, exclusive of all others, for the terms of ten years, and until the same should be redeemed by parliament. 5. That every person subscribing 500*l.* have a vote; and no person to have more votes than one. 6. That all ships laden in the East Indies, should be obliged to deliver in England. 7. That no person that should be a member of any corporation trading to the East Indies, should trade otherwise than in the joint stock of such corporation of which he was a member. 8. That 5*l.* per cent. *ad valorem*, upon all returns from the East Indies, be paid by the importer; to be placed to the account of the Subscribers, towards the charge of sending ambassadors, and other extraordinary expences. And 9, That over and above the duties now payable, a further duty of 1*s.* 10*d.* per pound weight, be laid upon all wrought silks imported from India and Persia; to be paid by the importer." This Bill being accordingly brought into the house, the old East India Company presented a Petition against it.

June 10. A motion being made, that the said Bill be read a second time, it passed in the affirmative, Yeas 135. Noes 99.

June 13. The Committee appointed to inspect the Books of the East India Company made their Report; by which it appeared:

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" That the original Stock of the said Company in 1657, was 369,391*l.* 5*s.* That 390 ½ per cent. was divided between Oct. 1, 1661, and April 1, 1681. That at a general Court, Nov. 2, 1681, a Call was made for the residue of the Adventurers Subscriptions, at 100 per cent. at two equal payments. That Jan. 18, 1681, the said Call was revoked, and a dividend of 150 per cent. was ordered, viz. 100 per cent. to double their stock, and 50 per cent. in money. That it appeared upon enquiry, that this sudden difference in the company's affairs, was owing to the arrival of 6 ships valued at 500,000*l.* That Dec. 31, 1680, the Company was in debt 532,539*l.* 7*s.* 6*d.* That in 1681, they took up at interest 80,910*l.* That from the time of doubling their Stocks as above, their Dividends were made regularly after the rate of 25 per cent. So that their Dividends from 1657 to 1681, amount to 440 ½ per cent. and from 1681 to 1691 doubling the same, according to the nominal duplication of the stock, to 400*l.* per cent. in all from 1657 to 1691, 840 ½ per cent. of the 369,891*l.* 5*s.* original stock. That these Dividends were always made on the arrival of ships on general computations, without the help of their books or a minute state of their whole Account. That March 31, 1693, their Books not being balanced any farther, the total of their Debt upon Bond, amounted to 631,554*l.* 19*s.* 10*d.* That what is owing by Customs, amounts by computation to 44,177*l.* 9*s.* 4*d.* And for Freight and Demurrage 10,191*l.* 7*s.* 3*d.* That in regard to their Debts in India, they could not compute them in less than ten days. That their cash amounted to 5,400*l.* That there was due to them upon Account 10,000*l.* That they have Salt Petre to the value of 13,000*l.* That the cargoes of their ships abroad are valued at 925,639*l.* 5*s.* 3*d.* That with regard to their dead Stock in India, they give the same Answer that they did to their Debts there.—That the Company having received 744,000*l.* new Subscriptions, and enquiry being made how it was disposed of, it was answered that it was impossible to give the particulars, but that all was comprized in their Cash Books; which being examined, they found that, beside 325,565*l.* 0*s.* 4*d.* repaid to the old Adventurers, the following particulars were placed to account, viz. Nov. 30, 1693, paid for the Company's special service 24,985*l.* Dec. 7, 1694, for Disbursements for the Company 7,828*l.* 13*s.* To sir Thomas Cook, on his note dated Jan. 10, 1693, 90,000*l.*"

The Bill passed in favour of the New Company, and sent up to the Lords.] A motion was then made, that satisfaction be given to the late Subscribers to the East-India Company, for all damages done them, by making Dividends beyond the real value of the Company's Stock, at the time of such dividend; and also by ordering to be paid out of the new Subscriptions a sum of about 325,000*l.* lent by the members of the old Company by way of Increase of their capital stock; such damage to be answered out of the estates of the said members, respectively receiving such dividend and payment: and a debate arose, which was adjourned till the next day, when the said Company remonstrated, that at the time of calling in the 50 per cent. they had a good estate to that value: That the said 50 per cent. was repayed to the old adventurers, with the concurrence of the new subscribers.

June 26. The Bill was passed on a division, Yeas 115, Noes 78; and sent up to the lords.

Protest thereon.] July 1. In the house of lords, after hearing Counsel for and against the Bill, and after debate thereupon, the question was put, Whether this Bill shall be read a second time? It was resolved in the affirmative. Contents 47, Proxies 18; in all 65. Not Contents 28, Proxies 20; in all 48.

" Dissentient', 1. Because this Bill puts an unreasonable hardship upon the present East-India Company, since it plainly appeared at the bar of this house, that a security, of which (we conceive) there was no reason to doubt, had been offered by the said Company for raising the whole two millions for the public service, whereas the Bill investing the new subscribers with the trade upon the subscription of one million only, does not, as we conceive, give so much as a probability of raising more; and it may be reasonably enough doubted, whether the separate trade allowed in this bill, concurrent with a joint-stock, may not prove so inconsistent, as to discourage the subscription from ever coming near to the said million. —2. Because the bill puts a period to the charter of the East-India Company, and gives the whole trade thither to other persons, without so much as suggesting that the said charter, or the trade carried on by virtue of it, hath been prejudicial to the king or kingdom, though the said company have an express clause in their charter, that it shall not be determined without three years warning, even if it should appear not profitable to the king or this realm; and the bill granting likewise a supply of two millions, in which the commons pretended the house of lords ought not to make any alteration; we are of opinion, their lordships are thereby likewise deprived of the freedom of their vote in the matter of the East-India trade, to which it cannot be denied but they have an equal right with the commons, and yet by its being joined to a bill of supply, this house must either be the occasion of disappointing so large and necessary a grant for the public service, or be put upon the unreasonable hardship of consenting to a matter which, though it seems never so unjust, it is fruitless for them to examine, if their amendments are not to be admitted, because offered to a money-bill, which we humbly conceive to be a manifest violation of the rights of this house, and tending to an alteration of the constitution of the government. (Signed) Halifax, H. London, Willoughby, Jeffreys, Berkeley of Berkeley, P. Winchester, Torrington, Rochester, T. Rollen, Howard, Denbigh, E. Gloucester, Scarsdale, Godolphin, Audley, Granville, Peterborow, Dartmouth, Berkeley, Anglesey, Guilford."

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Molyneux's "Case of Ireland" complained of.] May 21. Complaint had been made in the commons of a printed Book, entitled, 'The 'Case of Ireland being bound by Acts of Par-'liament in England,' (written by William Molyneux of Dublin, esq.) which denied the Dependence of Ireland upon the authority of the parliament of England. A Committee was thereupon appointed, to examine further into the said Pamphlet, to enquire into the Author of it; and also to search what Proceedings had been in Ireland that might occasion the said Book; and an Address to the king voted, that his majesty would give directions for the discovery and punishment of the Author.

June 22. Upon the Report of the Committee, it was unanimously resolved, "That the said Book was of dangerous consequence to the crown and people of England, by denying the authority of the king and parliament of England, to bind the kingdom and people of Ireland, and the subordination and dependence that Ireland has, and ought to have upon England, as being united and annexed to the imperial crown of this realm; and that a Bill entitled, 'An Act for the better Security of his 'majesty's person and government,' transmitted under the great seal of Ireland; whereby an act of parliament made in England, was pretended to be re-enacted, alterations therein made, and divers things enacted also, pretending to oblige the courts of justice, and the great seal of England, by the authority of an Irish parliament; had given occasion and encouragement, to the forming and publishing the dangerous Positions contained in the said Book."

Address thereon.] The house in a body then presented the following Address to the king:

"We, your majesty's most dutiful and loyal subjects, the commons in parliament assembled, conceive ourselves in duty bound to represent to your majesty the dangerous attempts, that have been of late made, by some of your subjects of Ireland, to shake off their subjection to, and dependence on, this kingdom: which has manifestly appeared to us, not only by the bold and pernicious assertions in a Book, published, and dedicated to your most excellent majesty, intituled, 'The Case of Ireland's being bound 'by Acts of Parliament in England stated;' which Book we examined and considered, upon its being brought to us, by your majesty's leave; but, more fully and authentically, by the Votes and proceedings of the house of commons in Ireland, in their late sessions; and by a Bill sent hither, under the great seal of Ireland, intituled, 'An Act for the better Security of his 'majesty's royal person and government;' whereby they would have an Act passed in the parliament of England, expressly binding Ireland, to be re-enacted there; and alterations therein made; some of which amount to a repeal of what is required by the said act, made in England; and, in other of the said alterations, pretending to give authority to, and oblige, the courts of justice, and great seal, here in England:—This we cannot but look on, as an occasion and encouragement to the forming, and publishing, the dangerous positions contained in the said Book. The consequences of such positions and proceedings will be so fatal to this kingdom, and even Ireland itself, that they need not be enlarged on, or aggravated. Therefore, we, your dutiful subjects, rest satisfied, that your majesty, by your royal prudence, will prevent their being drawn into example. And we, with all duty and humility, assure your majesty of our ready concurrence and assistance, in a parliamentary way, to preserve and maintain the dependence and subordination of Ireland to the imperial crown of this realm. And we humbly beseech your majesty, That you would be graciously pleased to give effectual orders, to prevent any thing of the like nature for the future, and the pernicious consequences of what is past, by punishing and discountenancing those that have been guilty thereof. And we beseech your majesty to take all necessary care, that the laws which direct and restrain the parliament of Ireland in their actings, be not evaded, but strictly observed:—And that your majesty would be pleased to discourage all things, which may, in any degree, tend to lessen the dependence of Ireland upon England."

To this Address his majesty's answer was, "That he would take care that what was complained of, might be prevented and redressed as the Commons desired."

June 23. An Address was read and agreed to, recommending the services and sufferings of the city of London-Derry to his majesty's consideration, for relief in the kingdom of Ireland; that they might no longer remain a ruinous spectacle to all, a scorn to their enemies, and a discouragement to his majesty's well-affected subjects.—As likewise the Governor and Garrison of the said City, as those who through the utmost sufferings and extremities have defended the same; and for so signal service, did deserve to have some special marks of his majesty's favour for a lasting monument to posterity.—In Answer to which, his majesty was pleased to promise to take them into consideration.

The King's Speech at the close of the Session.] July 5. The king came to the house of peers, and, having given the royal assent to several Bills, closed the session with the following Speech:

"My lords and gentlemen; I cannot take leave of so good a parliament, without publicly acknowledging the sense I have of the great things you have done for my safety and honour, and for the support and welfare of my people. Every one of your sessions hath made good this character. The happy uniting of us in an association for our mutual defence; the remedying the corruption of the coin, which had been so long growing upon the nation; the restoring of credit; the giving of supplies in such a manner for carrying on the war, as did by God's blessing produce an honourable peace; and after that, the making

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such provisions for our common security, and towards satisfying the debts contracted in so long a war, with as little burden to the kingdom, as is possible, are such things, as will give a lasting reputation to this parliament, and will be a subject of emulation to those, who shall come after. Besides all this, I think myself personally obliged to return my thanks to you, gentlemen of the house of commons, for the regard you have had to my honour, by the establishment of my revenue.—My lords and gentlemen; There is nothing I value so much, as the esteem and love of my people; and, as for their sakes I avoided no hazards, during the war, so my whole study and care shall be to improve and continue to them the advantages and blessings of peace. And I earnestly desire of you all, in your several stations, to be vigilant in preserving peace and good order, and in a due and regular execution of the laws, especially those against profaneness and irreligion."

The Parliament prorogued and dissolved.] Then the parliament was prorogued, and two days after dissolved, having now sat its period of three years, in which, as the king said in his speech, great things had been done; the whole money of England was recoined; the king secured in his government: an honourable peace was made; public credit was restored; and the payment of Public Debts was put on sure funds *.

On the 20th of July, the king embarked for Holland, and concluded the Treaty of Partition. On the 3d of December, his majesty landed at Margate.

First Session of the Fourth Parliament of King William III.

List of the House of Commons.] December 6, 1698. This day the New Parliament met at Westminster. The following is a List of the Members of the House of Commons:

Abingdon,
Simon Harcourt.
St. Albans,
Sir John Garrard,
Lord Cheyne.
Agmondesham,
Sir Samuel Grimston,
George Churchill.
Aldborough, (Suffolk)
Sir Henry Johnson,
William Johnson.
Aldborough, (Yorkshire)
Sir George Cook,
Sir Abstru. Danby.
Allerton, North,
Sir William Holster,
Ralph Milbank.
Andover,
John Smith,
Anthony Heuley.
Anglesea,
Richard visc. Bulkley.
Appleby,
Jervis Pierrepoint,
Sir John Walter.
Arundel,
John Cook,
Christopher Knight.
Ashburton,
William Stawell,
Richard Duke.
Aylesbury,
James Herbert,
Robert Dormer.
Bambury,
Sir John Cope.
Barnstaple,
Nicholas Hooper,
Arthur Champneys.
Bath,
Alexander Popham,
William Blaithwayt.
Beaumaris,
Owen Hughes.
Bedfordshire,
Lord Russel.
Sir William Gostwick.
Bedford Town,
Sir Thomas Alston,
William Spencer.
Bedwin,
Francis Stonehouse.
Charles Devant.
Berkshire,
Sir Humphrey Forster,
Richard Nevil.
Berwick,
Sir Francis Blake,
Samuel Ogle.
Beverly,
Ralph Wharton,
Sir Michael Wharton.
Bewdley,
Salway Winnington.
Bishops Castle,
Sir William Brownlow,
Charles Mason.
Blechingly,
Hugh Hare,
Sir Robert Clayton.
Bodmin,
Russel Roberts,
John Hoblyn.
Boralston,
James Montagu,
Sir John Hales.
Boroughbridge,
Sir Henry Goodrick,

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* "The chief conduct of affairs lay now in a few hands. Among these the lord Sommers was most eminent in the house of lords; for, as he was one of the ablest and most incorrupt judges, that ever presided in Chancery, so his great capacity for all affairs made the king consider him beyond all his ministers; and he well deserved the confidence that the king expressed for him on all occasions. In the house of commons, Mr. Mountague, the Chancellor of the Exchequer, had gained such a visible ascendent over all, who were zealous for the king's service, that he gave the law to the rest, which he did always with great spirit, but sometimes with too assuming an air. The Fleet was in the earl of Orford's management, who was both Treasurer of the Navy, and at the head of the Admiralty. He had brought in many into the service, who were very zealous for the government; but a spirit of impiety and dissoluteness ran through too many of them, so that those, who intended to cast a load upon the government, had too great advantages given by some of those. The administration at home was, otherwise, without exception, and no grievances were complained of. Sir William Trumball had been removed, on the 5th of Dec. 1697, from the post of Secretary of State, which was conferred on Mr. James Vernon, who had formerly been Secretary to the Duke of Monmouth, and since the Revolution, chief clerk to the duke of Shrewsbury, under whom he had for several years managed all the affairs of the duke's office, which the duke could not attend, because of his ill state of health, and was afterwards advanced to the place of Secretary to the Lords Justices, during the king's absence, which employment he had discharged to the king's satisfaction." Tindal.

* "Among the Pamphlets published about this time, there were two, which are laid on so broad and so constitutional a basis, that they deserve not only to have a place in our History, but to be made the standard of judgment in whatever relates to the Conduct of Parliaments: the first of them is called, 'The Danger of Mercenary Parliaments.' The second, 'Considerations on the Nature of Parliaments, and our present Elections.'" Ralph. For Copies of these Tracts, see Appendix No. XI. and No. XV.

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Christopher Vane.
Bossiny,
Sir John Pole,
John Tregagle.
Boston,
Richard Wynn,
Edmund Boulter.
Brackley,
Charles Egerton,
Sir John Aubery.
Bramber,
William Westbrook,
John Courthope.
Brecon County,
Sir Rowland Gwyn.
Brecon Town,
Thomas Morgan.
Bridgwater,
Roger Hoare,
George Crane.
Bridport,
Peter Pattiscomb,
Alexander Pitfield.
Bristol,
Sir Thomas Day,
Robert Yates.
Bridgenorth,
Sir Edward Acton,
Sir William Whitmore.
Buckinghamshire,
Goodwyn Wharton.
Lord Cheyne.
Buckingham Town,
Sir Richard Temple,
Alex. Denton.
Calne,
Henry Chivers,
Henry Blake.
Cambridgeshire,
Lord Cutts.
Sir Rushout Cullen.
Cambridge Town,
Sir John Cotton,
Sir Henry Pickering.
Cambridge University,
Henry Boyle,
Anthony Hammond.
Camelford,
Ambrose Manaton,
Henry Manaton.
Canteroury,
George Sayer,
Henry Lee.
Cardiff,
Sir Edward Stradling.
Cardigan County,
John Lewis.
Cardigan Town,
Sir Charles Lloyd.
Carlisle,
Sir Christ. Musgrave,
Jeremiah Bubb.
Caermarthen County,
Sir Rice Rudd.
Caermarthen Town,
Richard Vaughan.
Caernarvon County,
Thomas Bulkeley.
Caernarvon Town,
Sir John Wynn
Castle-rising,
Thomas Howard,
Robert Walpole.
Chester County,
Sir Robert Cotton,
Sir John Mainwaring.
Chester Town,
Sir Thomas Grosvenor,
Peter Shackle.
Chichester,
Sir Richard Farrington,
John Miller.
Chippenham,
Edwa d Montagu,
Walter White.
Chipping Wycombe,
Charles Godfrey,
Thomas Archdale.
Christ's Church,
Lord Cornbury,
William Ettericke.
Cirencester,
Henry Ireton,
Charles Cox.
Clifton,
Sir Joseph Herne,
William Hayne.
Clithero,
Christopher Lister,
Thomas Stringer.
Cockermouth,
William Seymour,
Sir George Fletcher.
Colchester,
Sir Thomas Cook,
Sir Isaac Rebow.
Corf-Castle,
John Banks,
William Culliford.
Cornwall,
Hugh Boscawen.
John Specoot.
Coventry,
Sir Christopher Hales,
Richard Hopkins.
Cricklade,
Edward Pleydell,
Charles Fox.
Cumberland,
Sir John Lowther,
Sir George Fletcher.
Denbigh County,
Sir Richard Middleton.
Denbigh Town,
Edward Brereton.
Derbyshire,
Sir Gilbert Clark,
Henry Gilbert.
Derby Town,
Lord Cavendish,
George Vernon.
Devizes,
Sir Francis Child,
John Methuen.
Devonshire,
Francis Courtney,
Samuel Rolle.
Dorsetshire,
Thomas Strangeways,
Thomas Freke.
Dorchester,
Sir Robert Napier,
Nathaniel Napier.
Dover,
Sir Basil Dixwell,
James Chadwick.
Downton,
John Eyre,
Carew Raleigh.
Droitwich,
Charles Cox,
Thomas Foley.
Dunwich,
Sir Robert Rich,
Henry Heveningham.
Durham County,
Sir Robert Eden,
William Lambton.
Durham City,
Charles Montagu,
Thomas Conyers.
Eastlow,
Henry Trelawny,
Charles Trelawny.
Edmunds Bury,
Sir Robert Davers.
John Harvey,
Essex,
Edward Bullock,
Sir Charles Barrington.
Evesham,
Sir Henry Parker,
John Rudge.
Exeter,
Sir Edward Seymour,
Sir Bart. Shower.
Eye,
Spencer Compton,
Sir Joseph Jekyll.
Flintshire,
Sir J. Conway.
Flint Town,
Thomas Mostyn.
Fowey,
Sir Bevil Granville,
Thomas Vivian.
Gatton,
Thomas Turgis,
Maurice Thompson.
Germains, (St.)
Daniel Elliot,
Henry Fleming,
Glamorgan,
Bussey Mansel.
Gloucestershire,
John How,
Richard Cocks.
Gloucester City,
Sir William Rich,
William Selwyn.
Grampound,
Sir William Scawen,
John Tanner.
Grantham,
Sir John Thorold,
Sir William Ellis.
Grimsby,
Sir Edward Ayscough,
Arthur Moore.
Grimstead,
Earl of Orrery,
John Conyers.
Guildford,
Morgan Randell,
Foot Onslow.
Harwich,
Sir Thomas Deval,
Sir Thomas Middleton.
Hasiemere,
Sir Theo. Oglethorpe,
George Vernon.
Hastings,
John Pulteney,
Peter Gott.
Haverford West,
Sir William Wogan.
Helston,
Sidney Godolphin,
Charles Godolphin.
Herefordshire,
Henry Cornwall,
Henry Georges.
Hereford City,
James Bridges,
Samuel Pitts.
Hertfordshire,
Sir Thomas Pope Blunt,
Thomas Halsey.
Hertford Town,
Sir William Cowper,
William Cowper.
Heydon.
Anthony Duncombe,
Hugh Bethel.
Heyteshury,
William Ash,
Edward Ash.
Higham Ferrers,
Thomas Etkins.
Hindon,
Sir James How,
Reynolds Calthorp.
Honiton,
Sir William Drake,
Sir Walter Yonge.
Horsham,
John Machell,
Henry Yates.
Huntingdonshire,
John Dryden,
John Proby.
Huntingdon Town,
Sir Francis Wortley,
Edward Carteret.
Hythe,
Sir Philip Boteler,
Jacob Desboverie.
Ilchester,
Francis Windham,
John Philips.
Ipswich,
Samuel Barnardiston,
Richard Philips.
Ives, (St.)
Sir Charles Wyndham,
James Praed.
Kellington,
Sir William Coryton,
Francis Fulford.
Kent,
Sir James Oxendon,
Sir Stephen Lennard.
Kingston,
Sir William St. Quintin,
Charles Osborne,
Knaresborough,
Robert Byerly,
Christopher Stockdale.
Lancashire,
James Stanley,
Fitton Gerrald.
Lancaster Town,

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Robert Heysham,
Roger Kirkby.
Lancaster,
Lord Hyde,
William Carey.
Leicestershire,
John Verney,
John Wilkins.
Leicester Town,
Sir William Villers,
Lawrence Carter.
Leominster,
Thomas Coningsby,
Edward Harley.
Leskard,
Henry Datel,
William Bridges.
Lestwithiel,
George Booth,
Samuel Travers,
Lewes,
Henry Pelham,
Thomas Pelham.
Lincolnshire,
Charles Dymock,
George Whichcott.
Lincoln City,
Sir John Bolles,
Sir Edward Hussey.
Litchfield,
Richard Dyott,
Sir Michael Biddulph.
Liverpool,
William Clayton,
Sir William Norris.
London,
Sir John Fleet,
Sir William Ashurst,
Thomas Papillion,
Sir James Houblon.
Ludlow,
Francis Herbert,
Thomas Newport.
Lusgershall,
Walter Kent,
John Webb.
Lyme-Regis,
Robert Henley,
Henry Henley.
Lymington,
Thomas Dore,
George Burrard.
Lynn-Regis,
Sir John Turner,
Sir Charles Turner.
Maidstone,
Sir Robert Marsham,
Thomas Bliss,
Malden,
Sir Eliab Harvey,
Irby Montagu.
Malmsbury,
Michael Wicks,
Edward Pauncefort.
Malton,
William Palmes,
Thomas Worsley.
Marlborough,
Earl of Ranelagh,
William Greenfield.
Marlow,
Sir James Etheridge,
James Chaos.
Mawes, (St.)
Sir Joseph Tredenham,
John Tredenham.
Melcomb Regis,
Michael Harvey,
Thomas Freke.
Merioneth,
Hugh Nanney.
Midhurst,
Sir Wm. Morley,
John Lukener.
Middlesex,
Sir John Wolstonholm,
Warwick Lake.
Milbourn-Port,
Sir Thomas Travel,
Sir Charles Carteret.
Minehead,
Jacob Banks,
Henry Lutterel.
Michael, (St.)
Sir John Hawles,
John Povery.
Monmouthshire,
Sir John Williams,
Thomas Morgan.
Monmouth Town,
Henry Probet.
Morpeth,
Philip Howard,
Sir Henry Bellysis.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
Price Devereux.
Newark upon Trent,
Francis Molineux,
George Markham.
Newcastle under Line,
Sir John Gower,
Sir Thomas Bellot.
Newcastle upon Tine,
Sir William Blacket,
William Carr.
Newport, (Cornwall)
John Grenville,
John Morrice.
Newport, (Hants)
Lord Cutts,
Sir Robert Cotton.
Newton, (Lancashire)
Thomas Lee,
Thomas Broughton.
Newton, (Hants)
Thomas Hopton,
John Worsley.
Norfolk,
Sir William Cook,
Sir Jacob Astley.
Northamptonshire,
Sir Justinian Isham,
John Parkhurst.
Northampton Town,
William Thursby,
Chr. Montagu.
Northumberland,
Sir Edward Blacket,
William Forster.
Norwich,
Robert Davy,
Thomas Blofield.
Nottinghamshire,
Sir Thomas Willoughby.
Gervis Eyre.
Nottingham Town,
William Pierrepoint,
Richard Slater.
Okehampton,
William Harris,
Thomas Northmore.
Orford,
Sir Charles Hedges,
Thomas Felton.
Oxfordshire,
Lord Norris,
Sir Robert Jenkinson.
Oxford City,
Thomas Rowney,
Sir Edward Norris.
Oxford University,
Sir Christ. Musgrave,
Sir Will. Glynn.
Pembrokeshire,
Arthur Owen.
Pembroke Town,
Sir John Philips.
Penryn,
Samuel Trefusis,
James Vernon.
Peterborough,
Sidney Wortley,
Francis St. John.
Petersfield,
Peter Bettesworth,
Robert Mitchell.
Plymouth,
Charles Trelawney,
John Rogers.
Plimpton,
Marmaduke Ryder,
Courtney Croker.
Pool,
William Jolliff,
William Piper.
Pontefract,
Sir John Bland,
John Bright.
Portsmouth,
Sir George Rook,
Thomas Erle.
Preston,
Henry Ashurst,
Thomas Molineux.
Queenborough,
Thomas King,
Robert Crawford.
Radnor County,
Thomas Harvey.
Radnor Town,
Robert Harley.
Reading,
Sir Owen Buckingham,
Sir John Dalby.
Retford,
Sir Willough. Hickman,
William Levinz.
Richmond,
John Darcy,
Thomas York.
Ripon,
John Aislaby,
Jonathan Jennings.
Rochester,
Sir Cloudsley Shovel,
Sir Joseph Williamson.
Rumney,
Sir Charles Sedley,
John Brewer.
Rutland County,
Richard Halford,
Lord Burleigh.
Rye,
Joseph Offley,
Sir John Austin.
Ryegate,
Stephen Harvey,
Edward Thurland.
Salop County,
Sir Edward Leighton,
Edw. Kynaston.
Salop Town,
Richard Mytton,
John Kynaston.
Saltash,
John Speccott,
John Morrice.
Sandwica,
John March,
John Thurbane.
Sarum, New,
Charles Fox,
Robert Eyre.
Sarum Old,
Charles Mompesson,
William Harvey.
Scarborough,
Lord Irwyn,
Sir Charles Hotham.
Seaford,
Sir William Thomas,
William Lowndes.
Shaftsbury,
Sir Edward Nicholas,
Henry Cornwall.
Shoreham,
Charles Sergison,
John Perry.
Somersetshire,
Sir Edward Philips,
John Hunt.
Southampton County,
Thomas Helljerd,
Richard Newton.
Southampton Town,
Sir Benj. Newland,
John Smith.
Southwark,
Charles Cox,
John Cholmondeley,
Staffordshire,
Edward Paget,
John Gray.
Stafford Town,
Thomas Foley,
Philip Foley.
Stamford,
William Cecil,
Charles Bertie.
Steyning,
Sir John Fagg,
Sir Edw. Hungerford.
Stockbridge,
George Pitt,
Anthony Sturt.
Sudbury,
John Hesketh,
Thomas Barnard.
Suffolk,
Sir Lionel Talmash,

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Sir Samuel Barnardiston.
Surry,
Sir Richard Onslow,
John Weston.
Sussex,
Robert Orme,
Sir William Thomas.
Tamworth,
John Chetwynd,
Thomas Guy.
Tavistock,
Sir Francis Drake,
Robert Russel.
Taunton,
Henry Portman,
Edward Clark.
Tewkesbury,
Charles Hancock,
Richard Dowdeswell.
Thetford,
James Sloan,
Sir Joseph Williamson.
Thirsk,
Sir Thomas Frankland,
Sir Godfrey Copley.
Tiverton,
Charles Spencer,
Thomas Bere.
Tolness,
Thomas Coulston,
Sir Edw. Seymour.
Tregony,
Francis Roberts,
James Montagu.
Truro,
Hugh Fortescu,
Henry Vincent.
Wallingford,
Francis Roberts,
Philip Meadows.
Warwickshire,
Sir J. Mordant,
Sir C. Shuckborough.
Warwick Town,
Sir F. Wagstaff,
Robert Greville.
Wareham,
George Pitt,
Thomas Trenchard.
Wells,
William Coward,
Edward Berkeley.
Wendover,
Richard Beak,
John Blackwell.
Wenlock,
William Forrester,
George Weld.
Weobly,
Robert Price,
Thomas Foley.
Westbury,
Robert Bertie,
Richard Lewis.
Westminster,
James Vernon,
Charles Montagu.
Westmoreland,
William Flemming,
Sir Richard Sandford.
Weymouth,
Philip Taylor,
Arthur Shallet.
Whitchurch,
Richard Woolastone,
Lord Russel.
Winchelsea,
John Hayes,
Robert Bristow.
Winchester,
Frederick Tilney,
Lord Pawlet.
Windsor,
William Scawen,
Richard Topham.
Wilton,
Sir Henry Ashurst,
John Gantler.
Wiltshire,
Edward Ernly,
Thomas Hungerford.
Woodstock,
James Bertie,
Sir Thomas Littleton.
Wooton Basset,
Henry St. John,
Henry Pynnil.
Wygan,
Orlando Bridgeman,
Sir Roger Bradshaw.
Worcestershire,
Sir John Packington,
William Walsh.
Worcester City,
William Bromley,
Samuel Swift.
Yarmouth, (Norfolk)
George England,
John Nicholson.
Yarmouth, (Hants)
Anthony Morgan,
Henry Holmes.
Yorkshire,
Lord Down,
Lord Fairfax.
York City,
Sir William Robinson,
Toby Jenkins.

Speaker to this Parliament, SIR T. LITTLETON.

Sir Tho. Littleton chosen Speaker.] Dec. 6. The new Parliament met at Westminster; and his majesty coming to the house of peers with the usual solemnity, sent for the Commons, to whom the Lord Chancellor signified his majesty's pleasure, that they should proceed to the Choice of a Speaker*, and present him on Friday next. The Commons made choice of sir Thomas Littleton, bart. who being presented on the 9th, was graciously approved by his majesty.

* "It was the 4th of Dec. in the evening before his majesty reached Kensington: after which there remained but one day for the pro-

pounding and digesting such preparations as were necessary, at least, for the Choice of a Speaker, on which, at this crisis, both parties seemed to think the issue of the parliament in a good degree depended; as it appears by a Paper published about this time, under the title of 'Considerations upon the Choice of a 'Speaker,' &c. (See Appendix, No. XIV.) the author of which seems to be equally apprehensive of a known profligate in the service of the court, and of a known profligate pretending to be in the service of the people: for, having premised, That whenever slavery should be entirely fixed in England, as it was amongst all our neighbours, it must be by the two-fold influence of a Corrupt Parliament, and a Standing Parliamentary Army, according to that famous maxim of lord Burleigh, 'That Eng-'land can never be undone but by a parlia-'ment;' as also, That a corrupt Speaker was the fittest person to corrupt and otherwise influence the proceedings of the house, he enters his first caveat against a person who had no other characteristics than confidence and dexterity, a person already debauched, and once rejected by the house on a like occasion; and who being already a Lord of the Treasury, was under the greatest temptation to do whatever was demanded of him, and consequently could neither with honesty or decency hold two such trusts as were inconsistent with each other. After which, he speaks of another gentleman, who at the Revolution was 16,000*l.* in debt to the crown, and by a particular clause in the Act of Indemnity, procured a release: And again, towards the close of his Paper, characterises the same gentleman, as an old prostitute of the exploded, Pensioned Parliament in Charles 2's reign, who had, from that time, been tricking the house in so shameful a manner, that the several periods of his life might be marked out by the bargains he had made with the court, when the court came up to his price. By the last of these gentlemen he meant sir Edw. Seymor, and by the first sir Tho. Littleton; concerning whom, and what was to be expected from him, he farther writes as follows: 'Suppose there is a Debt growing every day upon the nation by Seamen not discharged, while the money given for so necessary a purpose, has been disposed of for keeping up an Army, that should have been disbanded pursuant to the determination of the last parliament, after the most mature and solemn debates, must not the house expect interruptions in bringing on that matter, difficulties in wording, and delays in putting the question, from one who, in his station at court, may be, perhaps, charged with advising the keeping up of the army; and in the last Parliament was the best and most artificial advocate for not disbanding at all?" Now the person tacitly recom-

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The King's Speech on opening the Session.] His majesty then made the following Speech to both houses:

"My Lords and Gentlemen; I have no doubt but you are met together with hearts fully disposed, to do what is necessary for the safety, honour and happiness of the kingdom; and that is all I have to ask of you.—In order to this, two things seem principally to require your consideration. The one is, what Strength ought to be maintained at Sea, and what Force kept up at Land for this year. All I shall observe to you upon this head is, that the flourishing of Trade, the supporting of Credit, and the quiet of people's minds at home, will depend upon the opinion they have of their security; and to preserve to England the weight and influence it has at present on the councils and affairs abroad, it will be requisite Europe should see you will not be wanting to yourselves.—The second thing I shall mention to you as of great consequence, is the making some further progress toward discharging the Debts, which the nation has contracted by reason of the long and expensive War. In this the public interest as well as justice is concerned; and, I think an English parliament can never make such a mistake, as not to hold sacred all parliamentary engagements.—Gentlemen of the House of Commons; I do earnestly recommend these things to you, that you may provide such Supplies as you shall judge necessary for these several occasions.—My Lords and Gentlemen; I think it would be happy, if some effectual expedient could be found for employing the Poor, which might tend to the increase of our Manufactures, as well as remove a heavy burthen from the people. I hope also you will employ your thoughts about some good Bills for the Advancement of Trade, and for the further discouraging of Vice and Profaneness. The things I have mentioned to you being of common concern, I cannot but hope for unanimity and dispatch."

Vote to reduce the Army.] This Speech, being taken into consideration by the house, it was thought by the majority but a natural effect of Peace, to reduce the Army. Accordingly, after the affair had been thoroughly debated on both sides, they came to the following Resolutions, viz. "That all the Land-Forces of England, in English pay, exceeding 7,000 men (and those consisting of his majesty's natural-born subjects) be forthwith paid and disbanded. And that all the Forces in Ireland, exceeding 12,000 men (and those his majesty's natural-born subjects, to be kept and maintained by the kingdom of Ireland) be likewise forthwith disbanded." And they ordered a Bill to be brought in upon the said Resolutions, which was eagerly pushed on, and soon brought to perfection.

The King's Speech to both Houses on that occasion.] These proceedings, we are told, made the king very uneasy; and the more so, because his Dutch Regiment of Guards, who had so long served him, was by this Bill to be sent out of the kingdom. However, his majesty chose rather to compliment the commons, than to contend with them.* So on the 1st of

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mended by the disqualifications thus fastened upon these two, was Mr. Harley: But when the quest on came to be put, it appeared, That the majority were for sir Thomas Littleton, which looked like a good omen on the side of the court, promising a smooth and happy session." Ralph.

* "This gave the king great uneasiness; for, by these Resolutions, not only the army was to be reduced to an inconsiderable number, but that number was to consist of natural-born subjects, by which means the Dutch guards (of whom the king was intirely fond) were to be sent away, as well as the regiments of the French Refugees were to be cashiered. The king seemed not only to lay this much to heart, but even to sink under it. He tried all that was possible to struggle against it, when it was too late; it not being so easy to recover things in an after-game, as it was to have prevented this misunderstanding, which was like to arise between him and his parliament. It was surmised, that he was resolved not to pass the Bill, but that he would abandon the Government, rather than hold it with a force, that was too small to preserve and protect it. Yet this was considered only as a threatening, so that little regard was had to it. However, it appears from an original Letter of the lord chancellor Sommers to the duke of Shrewsbury, that the king had actually formed such a design; from which no remonstrances, which that lord could then use, could prevail on him to desist. For his majesty was resolved to go to the parliament, on the 4th of January, and to make the following Speech:—'I came to this kingdom, at the desire of this nation, to save it from ruin, and to 'preserve your religion, your laws, and liberties; and for that end I have been obliged to 'maintain a long and burdensome war for this 'kingdom; which, by the grace of God, and 'the bravery of this nation, is at present ended 'in a good peace; under which you may live 'happily and in quiet, provided you will contribute to your own security, in the manner I 'had recommended to you at the opening of 'the sessions. But seeing, to the contrary, 'that you have so little regard to my advice, 'and that you take no manner of care of your 'own security, and that you expose yourselves 'to evident ruin, by divesting yourselves of the 'only means for your defence, it would not be 'just nor reasonable, that I should be witness 'of your ruin, not being able to do any thing 'of myself, it not being in my power to defend 'and protect you, which was the only view I 'had in coming into this country. Therefore, 'I am obliged to recommend to you to chuse 'and name to me such persons, as you shall 'judge most proper, to whom I may leave the 'administration of the government in my absence; assuring you, that, though I am at

Feb. the king came to the parliament, and gave the royal assent to several Bills.—After which, his majesty made the following Speech:

"My Lords and Gentlemen; I came to pass the Bill for disbanding the Army, as soon as I understood it was ready for me: though in our present circumstances there appears great hazard in breaking such a number of the Troops: and though I might think myself unkindly used, that those Guards who came over with me to your assistance, and have constantly attended me in all the actions wherein I have been engaged, should be removed from me; yet it is my fixed opinion, that nothing can be so fatal to us, as that any distrust or jealousy should arise between me and my people, which I must own would have been very unexpected, after what I have undertaken, ventured, and acted for the restoring and securing of their liberties.—I have thus plainly told you the only reason which has induced me to pass this Bill: and now I think myself obliged, in discharge of the trust reposed in me, and for my own justification, that no ill consequences may lie at my door, to tell you as plainly my judgment, that the nation is left too much exposed. It is therefore incumbent on you to take this matter into your serious consideration, and effectually to provide such a strength as is necessary for the safety of the kingdom, and the preservation of the peace which God hath given us."

Address of the Commons thereon.] The Commons were so well pleased with this gracious complaisance of the king, that they immediately resolved, "That an humble Address be presented to the king, to give his majesty Thanks for his most gracious Speech, with the assurances of this house, That they will stand by, and assist his majesty in the support of him and his government, against all enemies whatsoever." And they accordingly put their Resolution into this form of Address:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Commons in parliament assembled, being highly sensible of the difficulties your majesty has undertaken, the labours you have sustained, and the hazards you have run, in rescuing us from Popery and Arbitrary Power, restoring our Liberties, and giving peace and quiet to all Christendom; beg leave to return our most hearty Thanks, for your most gracious Speech: in which you express so great a regard for the good will and affections of your people, and have given so undeniable a proof of your readiness to comply with the desires of your parliament; and as your majesty has shewn a most tender and fatherly concern for the security and safety of your people; so give us leave to assure your majesty, That you shall never have reason to think the Commons are undutiful, or unkind to your majesty; but that we will upon all occasions stand by, and assist your majesty in the preservation of your sacred person, and support of your Government against all your enemies whatsoever."

The King's Answer.] This Address being presented by the whole house, was thus answered by the king:

"Gentlemen; I take this Address very kindly: I am fully satisfied of your duty and affection to me, and have no doubt but you will always act in the manner you have expressed on this occasion."

The King's Message concerning the Dutch Guards.] March 17. The earl of Ranelagh delivered a Message from the king to the house, which was all writ by his majesty's own hand, as follows:

"William *R.* His majesty is pleased to let the house know, that the necessary Preparations are made for transporting the Guards who came with him into England; and that he intends to send them away immediately, unless, out of consideration to him, the house be disposed to find a way for continuing them longer in his service, which his majesty would take very kindly."

The Commons' Address, in Answer thereto.] Upon reading this Message, the question was put, "That a day be appointed to consider of his majesty's said Message;" but it was carried in the negative, and resolved, "That a Committee be appointed to draw up an humble Address, to be presented to his majesty, representing the Reasons why the house cannot comply with the purport of his majesty's Message this day communicated to the house." And this Address * was accordingly prepared, as follows, and delivered on the 24th.

'present forced to withdraw myself out of the 'kingdom, I shall always preserve the same 'inclination to its advantages and prosperity. 'And when I can judge, that my presence 'will be necessary for your defence, I shall be 'ready to return, and hazard myself for your 'security, as I have formerly done; beseech-'ing the great God to bless your deliberations, 'and to inspire you with all that is necessary 'for the good and welfare of the kingdom.'— By what means the king was diverted from executing this resolution, does not appear." Tindal.

* "The Commons, with a firmness never to be enough praised, or too often imitated, shut their ears against the voice of the charmer, and resolved to adhere to the Act, without giving way to the least qualification: in doing which, though they rendered themselves obnoxious to the king's displeasure, they did him a far more essential piece of service, than if they had gratified him in his request: for the undue preference given on many occasions to this body of Dutch Janizaries, (at the expence of the Scots Guards in particular) had blunted the zeal of his national troops, and almost deprived him of the hearts of his people: besides, in remaining thus inflexible, they preserved their own consistency; they countenanced the proceedings of former parliaments, who could not be induced to give their consent, That their own native kings should have Guards of their own native

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"Most gracious Sovereign, We your majesty's most dutiful and loyal subjects, the Commons in this present parliament assembled, do, with unfeigned zeal to your majesty's person and government, (which God long preserve) most humbly represent to your majesty, That the passing the late Act for disbanding the Army, gave great satisfaction to your subjects; and the readiness your majesty has expressed by your Message, to comply with the punctual execution thereof, will prevent all occasions of distrust or jealousy between your majesty and your people.—It is, Sir, to your loyal Commons an unspeakable grief, that your majesty should be advised to propose any thing in your Message, to which they cannot consent, with due regard to that Constitution your majesty came over to restore, and have so often exposed your royal person to preserve, and did in your gracious Declaration promise, that all those foreign forces which came over with you, should be sent back. —In duty therefore to your majesty, and to discharge the trust reposed in us, we crave leave to lay before you; that nothing conduceth more to the happiness and welfare of this kingdom, than an entire confidence between your majesty and your people, which can no way be so firmly established, as by entrusting your sacred person with your own subjects, who have so eminently signalized themselves on all occasions, during the late long and expensive war."

The King's Answer.] His majesty's Answer was as follows:

"Gentlemen, I came hither to restore the ancient Constitution of this Government. I have had all possible regard to it since my coming, and I am resolved through the course of my reign, to endeavour to preserve it entire in all the parts of it.—I have a full confidence in the affections of my people, and I am well assured, they have the same in me; and I will never give them just cause to alter this opinion. As to my subjects who served during the War, I am an eye-witness of their bravery, and of their zeal for my person and government; and I have not been wanting to express my sense of this to my parliament as well as upon other occasions.—I have all the reason to trust and to rely upon them that a prince can have; and I am satisfied, there is not one person among them capable of entertaining a thought, that what was proposed in my Message, proceeded from any distrust of them.—It shall be my study to the utmost of my power, to perform the part of a just and a good king: and as I will ever be strictly and nicely careful of observing my promise to my subjects, so I will not doubt of their tender regards to me."

This Answer, though it could not but please, yet it would not move the Commons from their Resolutions; so that the Dutch Guards were soon after shipped off for Holland.

The day before the transactions relating to the Dutch Guards, the question being put that the house do agree with the Committee of the whole house upon the Supply, That more Bills of Credit be issued out of his majesty's Treasury, which shall be current in all branches of the public Revenue; it passed in the negative, Yeas 148, Noes 182.

The Commons' Address on the State of the Navy.] March 29. The following Address was reported, agreed to, and ordered to be presented to his majesty by the whole house:

"Most gracious Sovereign; We your majesty's, &c. having taken into our serious consideration the State of the Navy, do most humbly represent to your majesty, That the Streights Squadron not sailing till September last, was prejudicial to England, and a great mismanagement.—That the Order made by the Commissioners of the Admiralty, Sept. 12, 1695, giving Henry Priestman, esq. an allowance of 10s. per diem, from the date of his Commission, as Commander in Chief before Sallee in 1684, till the ship Bonadventure was paid off, over and above his pay as captain of the said ship, was very unreasonable, and a misapplication of the public money.—That the Victualling any of his majesty's ships by others than by the Victuallers appointed for that service, or their agents, is contrary to the course of the Navy, and may be of ill consequence.—That many new and unnecessary Charges have, in an extraordinary manner, been introduced into the Navy, contrary to the rules of the Navy, which is a great mismanagement.—That the deductions of Poundage taken by the Pay-Masters of the Navy, for Slop-Clothes, Dead Men's Clothes, Tobacco, Chest at Chatham, Chaplain and Surgeon, is without Warrant, and ought to be accounted for.—That it is inconsistent with the Service of the Navy for the same person to be one of the Commissioners for executing the Office of Lord High-Admiral and Treasurer of the Navy at the same time.—And that the passing any Account of Monies impressed for the contingent use of the Navy, without regular vouchers, or such other proof, as the nature of the service will admit, either with or without a sign manual, is contrary to the rules and methods of the Navy, and of dangerous consequence.—All which we beg leave to lay before

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subjects: and they shut the door, for ever, as they thought, against the like shameful innovation. The courtiers, however, did not fail, on this occasion, to muster their whole strength, and put in practice all the devices in their power, to gratify their master at the expence of their country: for first in order to gain time for job-work and expedient, they moved, That a day might be appointed for taking the Speech into consideration; which being carried in the negative, and a Committee appointed to draw up an Address, representing the Reasons, why the house could not comply with his majesty's Message, they moved, in the next place, on the report of the said Address, That it might be recommitted; but were again defeated on a division of the house, by a majority of 19 voices: the Yeas being 156, the Noes 175." Ralph.

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your majesty, desiring that you will be graciously pleased to take effectual care that the Mismanagements herein complained of may be prevented for the future." *

The King's Answer.] His majesty's Answer was as follows: "Gentlemen, I will consider your Address: it is my desire that all sorts of Mismanagements and Irregularities should be prevented or redressed; you may be assured I will take the best care I can, in relation to the Navy; the right management whereof is of so great concern to the kingdom."

March 30. The Accounts relating to the Transports were laid before the house; whereby it appeared, that there had been paid on that Service 100,107*l.* 8*s.* 5½*d.* That there was still due 441,637*l.* 9*s.* 5*d.* And that the Cash in the Office amounted to 9,030*l.* 16*s.* 1*d.*

The Earl of Warwick and Lord Mohun tried for a Murder; and acquitted.] March 28. Edward earl of Warwick, and Charles lord Mohun, being severally indicted for the Murder† of Richard Coote, esq. were tried by the house of peers, in a court prepared for that purpose in Westminster-Hall, the lord chancellor of England being constituted lord high Steward upon this occasion. The court being opened, with the usual ceremonies, the Trial of the earl of Warwick came on first, and lasted till late in the evening, when the peers adjourned to their own house, and after some debate, the lords temporal only returned to the court in Westminster-Hall, where they delivered their Judgments *seriatim* upon their honours, and unanimously acquitted the earl of Warwick of the murder, but found him guilty of manslaughter; who craving the benefit of his peerage, according to the statute in that case provided, was thereupon discharged. The next day came on, in like manner, the Trial of the lord Mohun, who with great composedness and ingenuity, having made his innocence appear, was acquitted of the said murder, by the unanimous suffrages of the peers there present.

April 1. Sir George Rook presented to the house, according to order, a State of the Debt of the Navy, the total of which appeared to be 2,245,957*l.* exclusive of what was due to Marines.

Certain Letters of Mr. Chivers, a Member, complained of.] April 3. A complaint was made to the house of certain Letters written by Henry Chivers, esq. a Member, as not only reflecting on, but misrepresenting several Members of the House; which Letters are as follow:

"London Jan. 5, 1698. Dear Will. Yesterday we had a great contest in the house, concerning augmenting the Forces; in which my brother member signalized himself for the good of his country. He made a very violent speech for keeping up more Forces than the sense of the house was for; so that we poor country-gentlemen were forced to labour hard, and sit late to overcome them: I do really believe he will never give his country one vote, he is so linked in with the court-party. If you please, you may communicate this to your friends, and let them know that I shall always be ready to serve both them and you, here and elsewhere. So I remain, &c. H. CHIVERS."

"For Mr. Wm. Wilks, in Calne, Wiltshire."

"London Feb. 5. 1698. Dear Brother; I have sent you his majesty's Speech, and a List of those gentlemen who voted for a Standing Army. The question was whether the Army should stand, or the Bill be thrown out: but God be praised we carried it. The number for disbanding the Army was 221, and the List will satisfy you how many were against it. So I remain, &c. HENRY CHIVERS."

"To Mr. John Hoskins at Calne."

These Letters being read, Mr. Chivers was ordered to attend in his place, but pleaded indisposition by way of excuse: upon which, a motion being made for him to attend the next day notwithstanding, it was carried in the affirmative, Yeas 119 Noes 83. But he not obeying the said summons, the question was put, that he be sent for in custody of the serjeant at arms, and passed in the negative, Yeas 99. Noes 134.

Vote thereon.] Upon the whole, the house came to the following Resolution: Resolved, "That the publishing the Names of the Members of this house, and reflecting upon them, and misrepresenting their proceedings in parliament, is a breach of the privilege of this house, and destructive of the freedom of parliament."

April 21. The house proceeded to the choice of seven Commissioners for taking an Account of the Forfeited Estates in Ireland by

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"* It was evident, that this Address was chiefly levelled against the earl of Orford, who was both Treasurer of the Navy, and one of the Lords Commissioners of the Admiralty, and who had got too much by his late expedition in the Mediterranean, and done the government too signal services, not to lie open to the inquiry of some well-meaning, and to the envy of many disaffected persons. The earl therefore, foreseeing the storm gathering against him, thought it prudence to resign all his places and retire. However it ought to be remembered in justice to him, that what he got in the Streights, was only by the presents he received from the States, whom he protected; for it was confessed by his very enemies, that a fleet was never better taken care of, nor more timely provided than that, which he, with so much reputation, commanded. And besides it is most certain, that he charged the king in his books with much less a day for every man, than the usual allowance of the navy. He was so popular, that in the former parliament, when he was a Commoner, he was Knight of the Shire for Middlesex, Knight of the Shire for Cambridge County, and Burgess for Portsmouth." Tindal.

† In a drunken fray in Lincoln's-Inn-Fields, Three against three.

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Ballot, when the numbers stood thus. Francis Annesley, esq. 222, Henry earl of Drogheda 220, John Trenchard, esq. 208, James Hamilton, esq. 158, Henry Langford, esq. 136, Sir Rd. Leving 127, Sir Francis Brewster 122.

The King's Speech at the close of the Session.] May 4. The king came to the house of peers, and passed several bills. After which, his majesty made the following Speech:

"My Lords and Gentlemen; At the opening of this Parliament, I told you my opinion was, that you were come together with hearts fully disposed to do what was necessary for the safety, honour, and happiness of the kingdom; and having nothing else to recommend to you, I had reason to hope for unanimity and dispatch.—You have now sat so many months, that the season of the year, as well as your particular affairs, make it reasonable you should have a recess. I take it for granted, you have finished all the Bills, which for the present you think requisite to be passed into laws: and I have given my assent to all you have presented to me.—If any thing should be found wanting for our safety, the support of Public Credit, by making good the faith of the kingdom, as it stands engaged by parliamentary securities, and for discharge of the Debts occasioned by the War, or towards the advancing of Trade, the suppressing of Vice, or the employing of the Poor; which were all the things I proposed to your consideration when we met first, I cannot doubt but effectual care will be taken of them next winter: and I wish no inconveniencies may happpen in the mean time."

Then the Lord Chancellor prorogued the Parliament to the 1st of June.*

THE SECOND SESSION OF THE FOURTH PARLIAMENT.

The King's Speech on opening the Session.] Nov. 16. The parliament met at Westminster, and his majesty made this Speech to both houses:

"My Lords and Gentlemen; I hope you will not think I have called you out of your countries too soon, if you consider, that our common security requires a farther Provision should be made, for the safety of the kingdom by sea and land, before we are at the end of what was granted for that purpose last session: and when you enter upon this business, I believe you will think it necessary to take care of the Repairs of the Ships and of the Fortifications; without which our Fleet cannot be safe when it is in Harbour.—I cannot omit to put you in mind of another matter, in which so great a number of my subjects is concerned, and wherein the honour of the kingdom, and the faith of parliaments is so far engaged, that our future security seems to depend upon it; I mean, the making good Deficiencies of the Funds, and the discharging the Debts contracted by reason of the War.—And till we may be so happy as to see the public Debts paid, I shall hope that no session will end, without something done towards lessening them. While I am speaking to you on this Head, I think myself obliged to mention, with a particular concern, a Debt which is owing to the prince of Denmark, the state whereof I have ordered to be laid before you. Gentlemen of the house of commons; These things are of such importance, that I most earnestly recommend them to your consideration, and desire you to provide the necessary Supplies.—My Lords and Gentlemen; There is nothing I could more rejoice in, than that I were not under the necessity of so often asking Aids of my people; but as the reason of it is evident, because the Funds formerly applied to defray the Public Expence, are now anticipated for payment of the Debts of the kingdom; so it is my satisfaction, that you all see that nothing of what is demanded, is for any personal use of mine: and I do faithfully assure you, that no part of what is given, shall be diverted from any purpose for which it is designed.—I believe the nation is already sensible of the good effects of Peace, by the manifest increase of Trade, which I shall make it my business to encourage by all means in my power; probably it might receive an advantage, if some good Bill were prepared, for the more effectual preventing and punishing unlawful and clandestine trading, which does not only tend to defraud the public, but prejudice the fair merchant, and discourage our own manufactures.—The increase of the Poor is become a burthen to the kingdom, and their loose and idle life, does in some measure contribute to that depravation of manners, which is complained of, (I fear with too much reason). Whether the ground of this evil be from defects in the laws already made, or in the execution of them, deserves your consideration. As it is an indispensable duty, that the Poor, who are not able to help themselves, should be maintained; so I cannot but think it extremely desirable, that such as are able and willing, should not want employment; and such as are obstinate and unwilling, should be compelled to labour.—My Lords and Gentlemen; I have a

* "The many evidences of the declining influence of the Whigs, which had lately occurred, induced the king to transfer a considerable share of executive offices into the hands of the Tories. The earl of Jersey was made secretary of state, in the room of the duke of Shrewsbury; the earl of Pembroke succeeded the duke of Leeds as president of the council, and lord Lonsdale the earl of Pembroke as privy seal; Mr. Montague, against whom the Tories discovered great personal animosity, quitted the treasury, and was succeeded as chancellor of the exchequer by Mr. Smith, and as one of the lords of the treasury by Mr. Hill. This change of administration did not answer the king's expectation, by smoothing the current of public business. The zeal of the Whigs for his service abated upon every concession to their antagonists, who grew more bold in opposition from the prospect of their approaching ascendancy." Somerville.

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full assurance of the good affections of my people, which I shall endeavour to preserve by a constant care of their just Rights and Liberties; by maintaining the established Religion, by seeing the course of justice kept steady and equal, by countenancing Virtue, and discouraging Vice, and by declining no difficulties or dangers, where their welfare and prosperity may be concerned. These are my resolutions; and I am persuaded that you are come together with purposes on your part suitable to those on mine. Since then our aims are only for the general good, let us act with confidence in one another; which will not fail, by God's blessing, to make me a happy king, and you a great and flourishing people."

The Commons' Remonstrance thereon.] The house having taken this Speech into consideration, agreed upon the following Address:

"Most gracious Sovereign, We your majesty's most dutiful and loyal subjects the Commons in parliament assembled, being highly sensible, that nothing is more necessary for the peace and welfare of this kingdom, the quieting the minds of your people, and disappointing the designs of your enemies, than a mutual and entire confidence between your majesty and your parliament, do esteem it our greatest misfortune, that after having so amply provided for the security of your majesty and your government, both by sea and land, any jealousy or distrust hath been raised of our duty and affections to your sacred majesty, and your people; and beg leave humbly to represent to your majesty, that it will greatly conduce to the continuing, and establishing an entire confidence between your majesty and your parliament, that you would be pleased to shew marks of your high displeasure towards all such persons who have, or shall presume to misrepresent their proceedings to your majesty.—And your Commons (having likewise a due sense of the great care and concern your majesty has always expressed, for preserving and maintaining the religion, rights, and liberties of your people, in defence of which your majesty hath so often exposed your royal person) will use their utmost care and endeavours, to prevent and discourage all false rumours and reports, reflecting upon your majesty and your government, whereby to create any misunderstandings between you and your subjects."

The King's Answer.] To this his majesty was pleased to give the following Answer.

"Gentlemen, My parliament have done so great things for me, and I have upon all proper occasions expressed so great a sense of their kindness, and my opinion has been so often declared, that the happiness of an English king depends upon an entire good correspondence between him and his parliament, that it cannot seem strange for me to assure you that no persons have ever yet dared to go about to misrepresent to me the proceedings of either house. Had I found any such, they would have immediately felt the highest marks of my displeasure. It is a justice I owe not only to my parliaments, but to every one of my subjects, to judge of them by their actions: And this rule I will steadily pursue. If any shall hereafter attempt to put me on other methods, by calumnies or misrepresentations, they will not only fail of success, but shall be looked upon, and treated by me as my worst enemies.—Gentlemen; I am pleased to see by your Address, that you have the same thoughts of the great advantages which will ensue to the kingdom, from our mutual confidence, as I expressed to both houses at the opening of the session. I take very kindly the assurance you give me, of using your utmost care and endeavour to prevent and discourage all false Rumours and Reports reflecting upon me and my government: and I faithfully promise you, that no actions of mine shall give a just ground for any misunderstanding between me and my people."

Motion with regard to Lord Bellamont.] Dec. 6. It appearing to the house, that a Grant had been made by Letters Patent to the earl of Bellamont and others, of Pirates Goods: the question was put, That the said Letters Patent were dishonourable to the king, against the law of nations, contrary to the laws and statutes of the realm, an invasion of property, and destructive of trade and commerce; and passed in the negative.

Report of the Commissioners for taking an Account of the Irish Forfeited Estates.] The most material business that occurred next in the house of commons was the Report of the Commissioners for taking an Account of the Forfeited Estates in Ireland; an Abstract of which is as follows:

"The commissioners met with great difficulties in their Enquiry, which were occasioned chiefly by the backwardness of the people of Ireland to give any information, out of fear of the Grantees, whose displeasure in that kingdom was not easily borne; and by reports industriously spread and believed that their Enquiry would come to nothing. Nevertheless, it appeared to them, that the persons outlawed in England, since the 15th of Feb. 1688, on account of the late Rebellion, amounted in number to 57, and in Ireland to 3,921. That all the lands in the several counties in Ireland belonging to the forfeited persons, as far as they could reckon, made 1,060,792 acres, worth per annum 211,623*l.* which by computation of six years purchase for a life, and 13 years for the inheritance, came to the full value of 2,685,138*l.* That some of those lands had been restored to the old proprietors, by virtue of the Articles of Limeric and Galloway, and by his majesty's favour, and by reversal of out-lawries, and royal pardons, obtained chiefly by gratifications to such persons as had abused his majesty's royal bounty and compassion. Beside these Restitutions, which they thought to be corruptly procured, they gave an account of 76 Grants and Custodiums, under the great seal of Ireland; as to the lord Romney three grants now in being, containing 49,517 acres; to the earl of Albemarle in two Grants 103,633 acres in

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possession and reversion; to William Bentinck, esq. lord Woodstock, 135,820 acres of land; to the earl of Athlone two Grants containing 26,480 acres; to the earl of Galloway one Grant of 36,148 acres, &c. wherein they observed, that the Estates so mentioned did not yield so much to the Grantees as they were valued at; because as most of them had abused his majesty in the real value of their estates, so their agents had imposed on them, and had either sold or lett the greatest part of those lands at an under-value. But after all deductions and allowances, there yet remained 1,699,343*l.* 14*s.* which they lay before the Commons as the gross value of the Estates since the 13th of Feb. and not restored; besides a Grant under the Great Seal of Ireland, dated the 13th of May, 1695, passed to Mrs. Eliz. Villiers, now countess of Orkney, of all the private estates of the late king James, (except some small part in Grant to the lord Athlone) containing 95,649 acres, worth per annum 25,995*l.* 18*s.* value total 331,943*l.* 9*s.* concluding, that there was payable out of this estate, 2,000*l.* per annum to the lady Susanna Bellasis, and also 1,000*l.* per annum to Mrs. Godfrey, for their lives; and that almost all the old Leases determined in May 1701, and then this estate would answer the value above mentioned. (Signed) Francis Annesley, John Trenchard, James Hamilton, and Henry Langford."

Dec. 15. The commons having examined this Report, came to an unanimous Resolution, that a Bill be brought in 'To apply all the Forfeited Estates and interests in Ireland, and all Grants thereof, and of the Rents and Revenues belonging to the crown within that kingdom, since the 13th of Feb. 1688, to the use of the public;' and ordered a Clause to be inserted in that Bill, 'For erecting a Judicature for determining Claims touching the said forfeited estates.' They likewise resolved, That they would not receive any Petition from any person whatsoever, touching the said Grants or Forfeited Estates; and that they would take into consideration the great Services performed by the Commissioners appointed to enquire into the Forfeited Estates of Ireland.

Debate on the Conduct of the said Commissioners.] January 15, 1699-1700. A motion being made that the four Commissioners, who had signed the Report, presented to this house, had proceeded in the execution of that Commission with understanding and integrity; a Debate arose thereon, which was adjourned until the next day, when it was resumed; when six of the said Commissioners were examined as follows:* sir Richard Leving being first called in by himself.

Mr. *Speaker.* Sir Richard Leving, the house having been informed of something that you have said to a worthy member of this house (which I am confined to examine you to) I may name the person, because you have said it, as the house is informed, to more than one: the member's name is Vernon, and it is in relation to some discourse that passed between you and one or more of the Commissioners for the Irish Forfeitures concerning the private Estate being put into the Report. The house requires you to give an account of what you informed that worthy member.

Sir *Rd. Leving.* Mr. Speaker, I shall very readily obey the commands of the house; but, before that, I would inform you (if it be the pleasure of the house) of all that then passed.

Mr. *Speaker.* Pray take your own method, give an account of what you know.

Sir *Rd. Leving.* There was a debate arose between the Commissioners concerning the reporting the private Estate: upon that debate I was of opinion, That that Estate ought not to have been reported, because not within our power by the Act: upon this a Debate happened, and several reasons were offered why this might be understood to be a Forfeiture; one reason that was given was, that the estate was the late king James's estate, and so it was forfeited. To which answer was made, That if king James had forfeited it, yet it was not within the act, because the words of the act confined our enquiry to Forfeitures since the 13th of Feb. 1688. When that was said, there was another of the Commissioners, that did say, 'I was always of opinion that this was a Forfeiture within the act, because though king James had not forfeited before, yet he coming into Ireland on March 15, 1688, he committed treason against king William and queen Mary, and forfeited that estate.' It was then objected That this private estate of the late king was parcel of the possessions of the crown of England, and was vested in him as parcel of the crown of England; and the crown being vested in king Wm. and queen Mary by an act of parliament made in this kingdom, which settled the crown in king Wm. and queen Mary, the crown and all the possessions were vested in them Feb. 13, 1688. So that that estate being actually in his majesty then, and though otherwise it might have been conceived that king James had forfeited afterwards, though not then attainted, it could not be conceived how he could forfeit that estate because it was before in the king and queen. And the same gentleman that urged, that upon the 15th of March king James landed in Ireland and committed Treason, was pleased to say, 'I do not dislike the 30th of January, nor the deed that was done that day; I like both the day and the deed.' I confess I was surprised at it, and said, If those be your reasons, and this is your agreement, I declare I will never join in it.—One of the Commissioners at this time was absent, but the next day that gentleman was brought into the room with the other commissioners, and then this was debated again, and upon that debate much of that matter was spoke over again (not that relating to the 30th of Jan.) but then it was again urged, that that Estate might be said to be forfeited; and the same

* State Tracts in the reign of William 3. vol. ii. p. 726.

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objections were repeated, and it seemed to be assented to by the other commissioners, that it was not strictly a Forfeiture, and some of them said it might not be within the commission: then it was asked, Why then will you report it? And one of the gentlemen did answer, that it was a villainous Grant, and therefore fit to be exposed: I did not write down the words at that time, because I had then no intention of making any complaint, or publishing these matters. But since they have cut off our hands and seals from the Report, it made us think it necessary to do what we have done. And it being said by a Commissioner not here, but in Ireland, If we take it not to be within our Commission, why will you report it? for it will fly in the king's face: to which another answered, Why the commission flies in the king's face: if you won't fly in his face, you cannot execute this commission, or you must not execute it, one of them two.—Upon this it was further urged, That this matter should be reported; one of the Commissioners said, Though it was not clearly within the Act, yet he had received several letters from several members of this house to report this matter, and he said it was as good (or contained in the letter, that it was as good) do nothing as not to report it. There was upon this an expression by one of the Commissioners, that a great person was concerned [that was my lady Ork—y] and the application of that was, that if he was so tender of that person, we should not join with them in any thing else: for, sir, the debate was grown to this pass, whether if we did not join in this thing, we should not join in any thing else. This I think is the substance of what I told that worthy member: if I am asked as to any other person, I shall give you a true account.

Mr. *Speaker*. I am commanded to ask you, who were by upon this discourse between you and the rest of the Commissioners concerning the differences in opinion, and how many; and particularly at that time that one of the Commissioners did say, that he thought that since it was not in your commission to report that grant, it would be a flying in the king's face, &c.

Sir *Rd. Leving*. It was the day that the Commissioner that was sick first came to us, I believe about the 24th Oct. last: there was present at that time the lord Drogheda, sir Francis Brewster, Mr. Annesley, Mr. Trenchard, Mr. Hamilton, Mr. Langford, the Secretary, and myself, all were in the room when this was said.

Mr. *Speaker*. Who was it said it was a flying in the king's face? and who made answer that the Commission did fly in the king's face?

Sir *Rd. Leving*. It was my lord Drogheda said the first part, and Mr. Hamilton the other.

Mr. *Speaker*. Who said that concerning the 30th of Jan. That it was a good day and a good deed?

Sir *R. Leving*. That was the day before the other discourse was; there were all but Mr. Trenchard, who was sick and came next day.

Mr. *Speaker*. Who said it, and upon what occasion?

Sir *R. Leving*. It was not a particular direction to any person as I remember; but it was spoke by way of answer: It was told Mr. Langford when he came in, the Objection that was made against this being returned as a Forfeiture, &c. And then he said, I was always of opinion that this was a Forfeiture, and that kings might forfeit as well as others; and he thereupon said he did not dislike the 30th Jan.

Mr. *Speaker*. You mentioned that some of the Commissioners said they received Letters from members of Parliament to insert this Grant into the Report: please to repeat who had them, and from whom?

Sir *R. Leving*. The first time I heard mention of any such letter was the first night: After we rose we went to Mr. Trenchard's chamber, who was sick, to consult; for this debate occasioned some concern in our minds, and we did apprehend some breach amongst us, and went to his chamber to see if we could come to an accommodation; and offered Mr. Trenchard, and the rest of the gentlemen present, That if they would take the whole Report without the private estate, and sign it, we could join with them; and if they would put in an article of the private estate, they might sign it by themselves: for we thought if we could not agree to it, we would be no hindrance to them if they thought fit to do it; and then Mr. Trenchard said, he had Letters from several members to report this private estate, and that it would signify nothing if we did not report it.

Mr. *Speaker*. Did he say that from himself, or that it was in any Letter?

Sir *R. Leving*. I do not say that positively, he shewed me no Letter.

Mr. *Speaker*. Did he name any member?

Sir *R. Leving*. I do not remember that he named any member.

Mr. *Speaker*. Who were present at that time in Mr. Trenchard's chamber?

Sir *R. Leving*. Most of those gentlemen I have named were there the next day.

Mr. *Speaker*. Who were by?

Sir *R. Leving*. My lord Drogheda and sir F. Brewster were not there, but the rest were there, and the Secretary I believe was there. The next day, when we met again, there were present, as I informed you, all the Commissioners; and then Mr. Trenchard, amongst other discourse, did express himself in the said manner; and Mr. Annesly said, that he had received Letters from members of the house.

Mr. *Speaker*. But Mr. Annesly nor Mr. Trenchard did not tell you the contents of those Letters, nor from whom they received them.

Sir *R. Leving*. They said they had Letters to report this Estate, but they did not as I remember name any body, though I did hear from my lord Drogheda and sir F. Brewster, that they had named persons, but I did not myself take particular notice of any body.

Mr. *Speaker*. Did they produce any Letter, or shew you any?

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Sir *R. Leving.* Not then.

Mr. *Speaker.* When did you see any?

Sir *R. Leving.* I did see a Letter the next morning, and that Letter was shewed to me by Mr. Annesly, but I did not think that Letter came up to the point they spake over-night.

Mr. *Speaker.* Can you remember the contents of it?

Sir *R. Leving.* I had rather refer myself to the Letter; I believe Mr. Annesly has it.

Mr. *Speaker.* Who wrote it?

Sir *R. Leving.* Must I name him?

Mr. *Speaker.* Yes, the house expects it of you.

Sir *R. Leving.* His name is Mr. Arthur Moore: and I did then take notice of it to Mr. Annesly, that this Letter did not amount to what they told us the night before.

Mr. *Speaker.* You say you said to Mr. Annesly, you told us of a Letter you received from some members to report this private estate, but this letter does not come up to what you told us. Upon which Mr. Annesly answered as for himself, If we do not report that private Estate, we had as good do nothing.

Sir *R. Leving.* I don't say so: upon recollection, I do now believe that those gentlemen, Mr. Trenchard and Mr. Annesly, did say that there was contained in the Letter that expression, that if they did not put that Estate into the Report, they had as good do nothing; but when I once saw that Letter, I thought they had imposed upon us.

Then sir R. Leving withdrew, and all the rest of the Commissioners that were then in town, with their Secretary, were ordered to be brought in. And accordingly sir Francis Brewster, Mr. Annesly, Mr. Trenchard, Mr. Langford, and Mr. Hooper their Secretary were brought in.

Mr. *Speaker.* Gentlemen, I am commanded to enquire of you, and if you please you may speak severally to it: The house has been informed of some Discourses among you gentlemen of this Commission, when you differed in opinion about returning of king James's private Estate; the first time Mr. Trenchard was not there, and the next day that Mr. Trenchard was brought there: but I think the discourse the house would enquire after was the second day when Mr. Trenchard was there, which was to this effect, That some argument being given why this Estate was a Forfeiture, and other arguments being given that it was not, one of the Commissioners, as this house hath been informed, should say, 'If it be not within our Commission, it is a flying in the king's face.' Upon which another Commissioner made answer, 'Why the Commission itself flies in the king's face; and for what are we sent hither but to fly in the king's face,' or to that effect.

Members. No, no.

Mr. *Speaker.* I beg pardon if I mistake, the words were to this effect: The Commission flies in the king's face; and if you will not fly in his face, you must not, or you cannot execute this Commission. You are all said to be present when these words were spoken; so you will please to give account severally to the house what passed upon this occasion, and what you remember of it. Sir F. Brewster, if you please.

Sir *Francis Brewster.* I beg leave to say, I am sorry for any differences between us, and that we were as hearty as any in the execution of this Commission. But for the matter of the words now spoke of, there was some discourse concerning the reporting that private Estate: sir R. Leving said, it was not within our enquiry. To which some reply was made, Why if it was not within our Commission, yet it might be fit to be reported. My lord Drogheda made answer, If it be not within our Commission, then it will be to fly in the king's face to report it. Another then said, The Commission flies in the king's face, and we can't act in this Commission unless we fly in his face; I think that was said by Mr. Hamilton. Upon which some other arguments went on to enforce the passing of it. At last some of the Commissioners said they had a Letter from several members of the house of commons, that gave them reason to believe they should report this Estate: I think it was said by Mr. Annesly. Upon which sir R. Leving made answer, I do not think these gentlemen have changed their minds, that was, that Forfeitures might be made by kings: Upon which it was answered, You are mistaken, a great many of your friends are now come over to us; and they urged it still more, and at last they said they had had several letters about it. I must confess I made answer, I know not whether you have had any Letter, I never had any: But I must needs say, If I had no other reason, I should not sign this Report, for I think I ought not to be directed by any private member of the house, and that no Letter should prevail with me to do it; I am loth to name any one.

Mr. *Speaker.* The house expects it.

Sir *F. Brewster.* I think they named Mr. Harcourt.

Mr. *Speaker.* Who named him?

Sir *F. Brewster.* Mr. Annesly. He did not say in his Letter particularly, but did say something to that purpose, that if we did not report the private Estate, we had as good do nothing; and he said it was so in the Letter.

Mr. *Speaker.* Was you at Mr. Trenchard's chamber the first night that he was not at the Commission, the night before he was brought thither?

Sir *F. Brewster.* No, sir, I was not.

Mr. *Speaker.* Mr. Annesly, if you please, give an account of what you know of this matter: you hear to what the house hath a mind to be informed; it is as to the discourse that happened amongst you the Commissioners the two days you differed in opinion concerning the inserting of this Grant into your Report, and particularly as to the words spoken by Mr. Hamilton, or what else you heard then.

Mr. *Annesly.* Truly, Mr. Speaker, I never expected to have been called to an account for any thing that was said among the Commissioners in Ireland upon their debates, or that any gentleman in Commission with us would

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have acted such a part here; otherwise I should have been more observant thereof. But the particular expressions which some of us are charged with by the Evidence now given, are of so extraordinary a nature, that I could not easily have forgotten them; 'Flying in the 'face of the king,' is so great a reflection, and so foolish an expression, that I think I could not have passed it by without the censure it deserved. Sir, I do affirm to you upon my reputation, my credit, and all that is dear to me, that I never heard the least reflection upon the king by any of the Commissioners, either in their debates or otherwise, in execution of their authority.—When I had the honour to be appointed by you one of your Commission, I naturally reflected upon the part I was to act in it, the many enemies I must in likelihood create upon a faithful discharge of my duty, as well amongst men in power, the grantees, as the purchasers, and others claiming under them; of which I had some knowledge, having been formerly in Ireland. However, I was resolved, upon a very short notice, not only to subject my own private concerns to disappointments, but to dispose of other mens business, with which in the way of my profession I was entrusted, to their best advantage in my absence.—In discharge whereof I did act (and I hope it will appear I did so) with all imaginable integrity. And it will be my hard fortune, if after such my endeavours I should fall under your displeasure.—And as to what is alledged with respect to Mr. Harcourt, I do not remember that I ever mentioned his name upon any debate at our Board, whereby to influence any man in his judgment; nor indeed upon any other account except in private conversation, by drinking his health, and by expressing myself with that gratitude which became me towards one whom I had received particular obligations from, and deserved well from me.—I never had any Letter from Mr. Harcourt, that took the least notice of the private Estate, nor indeed that related to the execution of our Commission, except in one letter he said I might easily imagine with what pleasure he heard of the success of our labours, and that he was glad to find by the account I gave him, that the Forfeitures were likely to answer the end for which we were sent over, and that was the only letter I received from him during my stay in Ireland. Hearing abroad of such a letter being mentioned in the house, I looked all the letters I received from any of the gentlemen of this house during my stay in Ireland; but I own I am very unwilling to produce the letters of any person who favoured me with his correspondence, and do hope I shall not be obliged to it.

Mr. *Speaker*. For that you will have the further pleasure of the house; but do you say you never heard of those words of 'Flying in 'the king's face,' or that your Commission did fly in the king's face?

Mr. *Annesly*. From the time we first began to execute our Commission, till our power was determined, I never was absent one hour, I think I may say one moment, from business, and I assure you I never heard those words, nor any thing like them, fall from any one of the Commissioners. As to the debate among the Commissioners about returning the private Estate, some hot words did pass, and I will take notice to you, if you please, of some of them. The gentleman on my left-hand did give very abusive language to one of the other Commissioners.

Mr. *Speaker*. To whom?

Mr. *Annesly*. To Mr. Treuchard. Another of the Commissioners said, he would battle it with us at the bar of the house of commons.

Mr. *Speaker*. Who was that?

Mr. *Annesly*. My lord Drogheda. Says sir F. Brewster, I have as good friends as you, meaning Mr. Trenchard, and we shall be as well heard there as you. Mr. Trenchard answered, 'I don't fear what you can do, if you won't be an evidence against me:' The ill language sir Francis gave, forced that expression from him; the resentments were high, and the rest of the Commissioners then present endeavoured to pacify and make them friends. I own I then little suspected that sir Francis, who took the expression so ill, would have made good Mr. Trenchard's words at this bar; if I had, I should have taken more notice of what passed. There might be some other particulars that sir Francis has charged us with, which I may have omitted answering; if you please, sir, to remind me of them, I will give them the best answer I can.

Mr. *Speaker*. Mr. Trenchard, if you please to give the house an account of what you know of this matter?

Mr. *Trenchard*. I was present at the debate about the private Estate, which was managed with great warmth, and much said on both sides; but I do not remember one word which this gentleman speaks of, that was directly so said; I do own there were some words that might give umbrage to this accusation with those that were resolved to misunderstand them. The occasion was this: my lord Drogheda, as I remember, or sir Rd. Leving, said, it would be flying in the king's face to report this Grant. Upon which one of the Commissioners replied; 'My lord, we have heard too much of this argument already, and it is time to have done with it; we were not sent here to flatter, and if the enquiring into the mismanagement of the Forfeitures be a flying in the king's face, then our whole Commission is a flying in his face. It is not dishonouring, but vindicating his majesty, to shew he has been abused by ill men; and I doubt not but he will desert them when he has discovered it, as the best and wisest princes in all ages have done.' More than this I do affirm, upon the reputation of a gentleman, and the word of an honest man, was not said whilst I was at the Board.

Mr *Speaker*. Who said the words you have repeated?

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Mr. *Trenchard.* 'Twas I, sir.

Mr. *Speaker.* You don't remember that Mr. Hamilton said any thing as to the flying in the king's face?

Mr. *Trenchard.* I do affirm that Mr. Hamilton, to the best of my memory (and I think I could not mistake it) did not say any words relating to that matter, more than that since we had enquired into the private Estate, and it was known in both England and Ireland, we should be thought bribed and corrupt if we did not report it: But I am very sure he said no words dishonourable of his majesty; and if he had, I would have resented it at that time, as I suppose these gentlemen would have done, and called upon others to have taken notice of it.

Mr. *Speaker.* What words did you hear said in your chamber?

Mr. *Trenchard.* A great part of the time I was in that kingdom, I was confined to my chamber being sick, which I impute in a great measure to the fatigue of our Commission, during which time I had the favour to be visited sometimes with ten or a dozen in an evening, sometimes twice the number of the people of the best fashion in that country, and amongst the rest my own brethren often obliged me with their company; without doubt in this time many subjects were discoursed of, but the particulars of any one discourse I do not remember. I never treasure up what is said in private conversation; and if I did, I scorn to tell it.

Mr. *Speaker.* Mr. Langford, you hear what the gentlemen have given an account of, it is of what passed between you about putting the private Estate into the Report, and whether upon my lord Drogheda's saying it would be a 'Flying in the king's face,' Mr. Hamilton answered, 'Our Commission flies in the king's 'face?'

Mr. *Langford.* I was present when this debate happened about the private Estate, and it was with a great deal of heat. It was objected by my lord Drogheda, that it would be a flying in the king's face to report the private Estate, and was not in our Commission. It was answered by Mr. Trenchard, we had that too often mentioned, to put us by the execution of this Commission; that we did not think the discovering abuses, a flying in the king's face; but that, on the contrary, we should do service to his majesty to lay the matter before him, that he might see how the Grants were disposed of, and how he was deceived in them, and he thought it was also necessary that both this house and the kingdom should know it.

Mr. *Speaker.* What did Mr. Hamilton say?

Mr. *Langford.* I did not hear him speak one word relating to the king, on this point.

Mr. *Speaker.* Do you know of any Letters from members of this house?

Mr. *Langford.* No, sir, I had not the honour to be acquainted with many members; I had no Letter myself, nor did I see any.

Mr. *Speaker.* You are accused about words of your own.

Members. Do not ask him to that.

Mr. *Speaker.* Mr. Hooper, you hear to what purpose you are called in.

Mr. *Hooper.* Yes, I do, the whole matter seems strange to me; I have not been absent from the Board, except when I was sick at Limerick, one hour during the whole execution of this Commission: nor did I hear one word spoken reflecting upon his majesty, unless the insinuation, that doing our duty would be flying in the king's face, which I think was a great reflection upon him; and I think Mr. Trenchard has very well repeated his own words. I am sure in substance they are the same. I am confident there was no Letter produced whilst I was at the board, from any member: And I believe by what conversation I had with the four commissioners, they never had any but what was fit to be produced; and for the substance of what Mr. Annesly and Mr. Trenchard have said, I know it to be true. I never heard Mr. Hamilton speak but with great honour of the king; and I do positively assert, to the best of my memory, he never said any such thing, as is alledged against him, at the board. I am confident I was present at all the debates about the private Estate, and do remember the three dissenting commissioners did immediately declare themselves against the inserting it in the report; three others that are present did as readily declare for it. So that Mr. Hamilton being in a manner solely left to determine this matter, complained that it was a great hardship upon him; for says he, my lord Ork—y is my relation and my friend, and besides I am a tenant to the private Estate, and it is very severe that the decision of this matter should lie upon me. He added, he should be very well pleased if the objection had been made sooner, and perhaps it might have had more weight with him; and truly, Mr. Speaker, it did not appear that there was one of the commissioners for above five months, but seemed to be peremptory for the reporting it, and accordingly sir Rd. Leving, and sir F. Brewster, joined in the Examination of many witnesses to the value of it at Limerick, and other places, till about five days before the power of the Commission ceased, when I moved the board that I might have some direction about that estate; and they made an order that I should immediately prepare the report, and put this in it. And Mr. Hamilton gave this reason when he joined with the commissioners, We have made so great a noise about this Estate, by examining so many people to the value, and sending for the rent-rolls of it, that it is now the public discourse that it will be reported; and I know the world must needs say that we are bribed and corrupted if we do it not: If it was possible, I should be glad to be excused; but I will rather lose my friend, I will rather lose my little Estate, than be thought guilty of Bribery and Corruption, and so gave his consent to the reporting of it. And for the words relating to flying in the king's face, I affirm they are false.

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Sir *Francis Brewster.* I desire to speak a few words: You were pleased to ask me to give an account of what passed about the words, 'flying in the king's face,' and I find the house expects I should give an account of the whole that passed then: And I beg leave to say farther, that when the debate was about the private Estate, and those words were said about flying in the king's face, which my lord Drogheda, and others will take their oaths of, and I believe Mr. Hamilton will not deny; at the same time this was said by Mr. Trenchard, I heard you talk of flying in the king's face, I hope it is not flying in his face; but this I must tell you, it is a villainous grant, and ought to be exposed. Upon his speaking so, words arose, and that gentleman gave me ill language; but my language was not so bad, but he was forced to beg my pardon at the board, and I did not his; there he stands, let him deny it if he can.

Mr. *Trenchard.* Sir, it is true, I did ask his pardon, and the occasion was this, as Mr. Annesly has acquainted you: I was provoked by his opprobrious language to reply, I feared him in no capacity but as an evidence, which he took very heinously: He repented the word evidence; he said it was below a gentleman, below a man of honour, that such a one ought to be shun'd by all civil conversation, that I had better have stuck a dagger in his heart, than have called him an evidence; which now I think, Mr. Speaker, he won't resent so highly. This put the board in great disorder, and one of the commissioners whispered to me (I think it was the absent member, but I am sure all agreed in it) you know he is a very simple, old fellow; and though he gave the affront, you are in the wrong that you are capable of being angry with him. Truly, sir, I was conscious to myself that I was much to blame, to suffer myself to be provoked by him; and therefore, that the debate might be interrupted no longer, I asked his pardon. As to the other part I am charged with, that I called the grant of the private Estate a villainous grant, I directly deny it. It was possible I might say it was an extravagant grant, an unreasonable grant, an unconscionable grant, that the king was imposed upon and deceived in this grant, to give that for 5000*l.* per ann. which is worth between five and six and twenty thousand. These are words that amount to it, and might fall from me, but that I used the word villainous I positively deny; it is a word I don't use in my ordinary conversation, a word that never comes out of the mouth of a gentleman, and is false.

Mr. *Speaker.* Mr. Annesly, it is understood that you received a letter from a worthy member of this house, Mr. Moore; and I think you told us that you had that letter, and all other letters that you had received from any members; I know not whether the house will order the rest, but that worthy member desires that his letter may be produced if you have it.

Mr. *Annesly.* Mr. Moore has desired it, has he?

Mr. *Harcourt.* I desire mine too.

Mr. *Speaker.* Mr. Harcourt would have his too.

Mr. *Annesly.* It is with great regret that I bring the letters of gentlemen here, especially those I received from any of the members of this house, who did me the honour to correspond with me at that time; though I think there is nothing written in them that any man need decline owning. And therefore, I think it will be more for their service to shew them, lest they may be suspected for what they don't deserve: If this house obliges me to lay them all before them, I must submit.

Members. No, no.

Mr. *Speaker.* But that gentleman desires you to produce his. And Mr. Harcourt also desires his.

Mr. *Annesly.* I have but four in my hand, one from Mr. Moore, one from Mr. Harcourt, the rest are from Mr. Sloane.

Mr. *Sloane.* I desire he will produce mine too.

Mr. *Speaker.* I think you named but three, Mr. Sloane desires his too.

Mr. *Annesly.* There are two from Mr. Sloane, one from Mr. Harcourt, and the other from Mr. Moore.

Which letters Mr. Annesly delivered in to the Clerk.

Mr. *Annesly.* I think it my duty to say something for Mr. Hamilton who is absent, and that is to assure you, that I never heard any words fall from him that were unbecoming a gentleman fit to be intrusted by you in this commission; and as for that which is said of Mr. Trenchard, it is false as to my hearing of it; I was present at all the debates, and I do not remember the least thing that ever came from him, reflecting upon the king or his grants, in the whole course of our conversation, otherwise than as he has told you himself.

Votes thereon.] There having been divers groundless and scandalous aspersions cast upon Francis Annesly, John Trenchard, James Hamilton and Henry Langford, esqrs.,

Resolved, "1. That the said four commissioners have acquitted themselves, in the execution of that commission, with understanding, courage and integrity. 2. That sir Rd. Leving, another of the said commissioners, has been the author of the said groundless and scandalous Reports upon the four commissioners beforementioned. 3. That the said sir Rd. Leving be committed to the Tower for the said offence." And he was committed accordingly.

Two days after, the Bill 'For applying the Irish Forfeitures to the Use of the Public,' was read a second time, and committed to a Committee of the whole house. Upon this occasion, the courtiers made a motion, and caused the question to be put, That the said Committee be empowered to receive a Clause for reserving a proportion of the Forfeited Estates in Ireland, to the disposal of his majesty; which passing in the negative, it was resolved on the 18th, "That the advising, procuring, and pass-

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ing the said grants of the Forfeited and other Estates in Ireland, had been the occasion of contracting great Debts upon the nation, and levying heavy taxes on the people; that the advising and passing the said Grants was highly reflecting on the king's honour; and that the officers and instruments concerned in the procuring and passing these Grants had highly failed in the performance of their trust and duty."

Resolutions on the Supply.] All this while the business of the Supply went on, and the Commons resolved, "That the sum of 76,383*l.* now remaining in the Exchequer, on account of Tonnage and Poundage, with what the Subsidy should bring in more to the 25th of Dec. should be applied towards the payment of Seamens Wages, and that 220,000*l.* be borrowed at 5 per cent. for the same use: That 7,000 Seamen be the complement for the next year's Service; that 18,000*l.* be allowed for Bounty-Money to the Officers of the fleet; 90,000*l.* for the Extraordinary of the Navy; 300,000*l.* for Guards and Garrisons; and 25,000*l.* for the Office of Ordnance for the year 1700. They likewise made a Provision for Half-Pay to the Disbanded Officers; and laid 2*s.* in the pound Land-Tax."

The Resumption Bill ordered.] Feb. 6. The commons resolved to raise money to discharge the Debt due to the Army; and a motion was made and the question put, "That the procuring or obtaining of Grants of Estates belonging to the crown, by any public minister concerned in the directing or passing such Grants, to or for their own use or benefit, while the nation lay under the heavy taxes of the late War, was highly injurious to his majesty, and prejudicial to the state, and a violation of the trust reposed in them." Whereon the court-party carried it in the negative; but at the same time, they gave their consent to an order for bringing in a Bill, 'To resume the Grants of all Lands and Revenues of the crown, and all Pensions granted by the crown since the 6th of Feb., 1684, and for applying the same to the use of the public.'

Votes of the House relating to the said Grants presented to his Majesty.] Feb. 15. The commons proceeded to consider further of the State of the Nation; and upon a very hot and long debate, it was resolved, "That an Address be presented to his majesty, representing to him the Resolutions of this house of the 13th of January last, relating to the Grants of the Forfeited Estates in Ireland."

The King's Answer.] Feb. 21. The Commons in a body having waited on the king, with their Address of the 15th of that month, in relation to the Irish Forfeitures, his majesty told them:

"Gentlemen; I was not led by inclination, but thought myself obliged in justice to reward those who had served well, and particularly in the reduction of Ireland, out of the Estates forfeited to me, by the Rebellion there. The long war in which we were engaged did occasion great taxes, and has left the nation much in debt; and the taking just and effectual ways for lessening that debt and supporting the public credit, is what, in my opinion, will best contribute to the honour, interest and safety of this kingdom."

The Speaker having, five days after, reported this Answer, the Commons were so provoked by it, that they resolved, "That whosoever advised it, had used his utmost endeavours to create a Misunderstanding and Jealousy between the king and his people."

Ways and Means.] Col. Granville, (afterwards lord Granville,) was during this interval, Chairman of the Committee of the whole house, who took into consideration the State of his majesty's Revenue, and resolved, "That there had been a great loss in his majesty's Revenue of Excise; and, That it be an instruction to the Committee of the whole house, to whom the Land-Tax and Irish Forfeiture bills were committed, that they receive a clause to enable his majesty, for the improvement of the Revenue, to let to farm the Duties of Excise; but no member of the house to be a farmer or manager of Excise."

March 7. The Commons voted 1000*l.* to be paid the earl of Drogheda, Francis Annesly, John Trenchard, James Hamilton, Henry Langford, esqrs; and to James Hooper, Secretary to the Commissioners; but to sir Rd. Leving and sir Francis Brewster, who had been at as much trouble as the rest, only 500*l.* each, in consideration of their Expences. They laid a Duty on Irish Hops, on East-India Goods, and continued the Duties on French Goods and wines, towards raising the Supply; and ordered a Clause in one of the Money-bills for the importing, Custom-free, a certain quantity of paper for printing Dr. Alix's Ecclesiastical History. They resolved, That a Supply be granted to his majesty towards the Payment of his proportion of the Debt owing to the prince of Denmark, and the moneys to be raised to be laid out in this kingdom, and settled upon the prince and princess, and their issue, according to their marriage-agreement. That an Address be presented to his majesty, that he would use his endeavour to procure other princes and states to pay their proportions of the said Debt. They agreed upon a Supply for the Coinage, for circulating Exchequer-Bills one year longer, for making good the Deficiencies of the 3*s.* in the pound, in the 8th year of his majesty's reign, and of the Duty on stamped Paper and Parchment, granted in the same session of parliament; of the Malt-Tickets and Quarterly Poll granted in the next year, for paying off the Transport-Debt, and for payment of the Debt due to the Navy, and Sick and Wounded Seamen.

Address relating to Capt. Kidd.] March 16. An Address was presented to the king, That Capt. Kidd might not be tried, discharged, or pardoned, until the next session of parliament; and that the earl of Bellamont, governor of New-England, might transmit over all Instructions and Papers taken with, or relating to

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the said Kidd; which his majesty complied with.

Commissioners nominated for the Sale of the Irish Forfeitures.] March 26. The house having considered of the number, qualifications, and manner of chusing the Trustees for the Bill of Irish Forfeitures, resolved, "That the number of the said Trustees be thirteen: that no person be a Trustee who had any Office or profit, or was accountable to his majesty; or was a member of this house. And that the said Trustees be chosen by ballotting."

The Bill of Resumption passes the Commons.] April 2. The Commons passed the Bill for granting an Aid to his majesty, by Sale of the Forfeited and other Estates and Interests in Ireland; and by a Land-Tax in England for the several purposes therein mentioned: and sent it to the lords for their concurrence.

Proceedings of the House ordered to be printed.] April 8. The house ordered the Report of the Commissioners for Irish Forfeitures to be published; and that the Resolutions of the 18th of Jan. last, the Resolution of the 4th of April 1690, relating to the Forfeited Estates; his majesty's Speech to both houses, the 5th of Jan. 1690-1; the Address of the House to the king the 5th of February last; his majesty's Answer thereunto the 26th of the same February, and the Resolution of the house thereupon: and lastly, the Address of the house of commons, of the 4th of March, 1692-3, and his majesty's Answer thereunto, be also reprinted with the said Report. And resolved, "That the procuring or passing exorbitant Grants, by any member now of the Privy-Council, or by any other that had been a Privy-Counsellor in this or any former reign, to his use or benefit, was a High Crime and Misdemeanour."

Amendments made by the Lords to the Bill of Supply.] On the other hand, the Court finding their party extremely weak in the house of commons, endeavoured to oppose the passing of this complicated Bill in the house of lords; to which the majority of that illustrious assembly was inclined; some out of complaisance to the king, and most of them because they looked upon the tacking of one Bill to another, as an innovation in parliamentary proceedings, and such as evidently tended to retrench, if not wholly to take away the share the peers of England ought to have in the legislative authority. But because they could not reject the Bill without leaving the urgent necessities of the state unprovided, their lordships contented themselves to make great Amendments to that part of it that related to Forfeitures. The Commons having considered and unanimously disapproved the said Amendments, sent to desire a Conference with the lords thereupon; appointed a Committee to draw up Reasons to be offered to their lordships; resolved, That two days after, they would proceed in the further consideration of the Report given in by the Commissioners for Irish Forfeitures; and ordered a List of his majesty's Privy Council to be laid before the house.

Conferences between the two Houses thereon.] April 9. A Conference was managed between both houses, in which the lords did warmly insist on their Amendments; and the commons as vehemently maintained their disagreement with their lordships. The next day two Conferences were had on the same subject, and with as little success; at which the commons were so exasperated, that they ordered the lobby of their house to be cleared of all strangers; the back doors of the Speaker's Chamber to be locked up; and that the Serjeant should stand at the door of the house, and suffer no members to go forth; and then proceeded to take into consideration the Report of the Irish Forfeitures, and the List of the Lords of the Privy Council.

The King desires the Lords to pass the Bill, which they do.] The king being informed of the high ferment the commons were in, and apprehending the consequences, sent a private Message (by the earl of Albemarle) to the lords, to pass the Bill without Amendments; which their lordships did accordingly, and acquainted the commons with it.

Proceedings thereon in the House of Lords.] April 4. The question being put, Whether this Bill shall be read a second time? It was resolved in the affirmative. Contents 70; Not contents 23.

Protests against the said Bill.] "Dissentient' Though there be nothing we most earnestly desire, and shall on all occasions, to the utmost of our power, more sincerely and heartily endeavour, than the preservation of a constant, right and good understanding and agreement between the two houses of parliament, as that on which the safety, welfare, and happiness of the nation, and the preservation of the wisest and noblest constitution of the world, does so much depend; yet we cannot but enter this our protestation against a second reading of this bill. 1. Because, as we conceive, this bill does, in one part, tend very much to the alteration (if not to the destruction) of that constitution which, we believe, the supply in the other part was given to preserve. 2. Because, we conceive, the tacking so many and different matters to a money bill, is not only contrary to all the rules and methods of parliament, but highly dangerous both to the undoubted prerogative of the crown, and right of this house, putting it, as we conceive, in the power of the commons to make any resolutions of their own as necessary as any supply given for the support or emergencies of state. 3. We know not how far the just right any private subject has to his estate may be endangered by the precedent of such a bill; for if the titles so many persons have to their estates may be determined by the commons in a money bill, without either oath or appeal, as, we conceive, in this bill they are, we cannot apprehend, how any single private subject, or minister of state, can, for the future, be safe; which must needs be a weakening the prince's hands, and the legal security every man now has to his estate. (Signed) Richmond, Ha-

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versham, Mohun, Stamford, Bolton, Audley, Bergevenny, Anglesea."

April 10. The question being put, Whether this house will agree to the said Bill without any amendments? It was resolved in the affirmative. Contents 39; Not contents 34.

"We do dissent for the Reasons given this day to the commons at a Conference, which Reasons are as follow: 1 Because the Reasons given by the commons against their lordships Amendments do no way relate to the matter contained in the said Amendments. 2 Because though there be nothing in the said Amendments relating to Aids and Supplies granted to his majesty in parliament, yet the commons have thought fit to take occasion thereupon to assert a claim to their sole and entire right, not only the granting all Aids in parliament, but that such aids are to be raised by such methods, and with such provisions as the commons only think proper: If the said assertions were exactly true (which their lordships cannot allow) yet it could not, with good reason, follow from thence, that the lords may not alter, or leave out, according to their Amendments, when the saving the estates of innocent persons, and of such as have been outlawed after their death, makes such Amendments necessary. 3. And the lords think it unreasonable and unjust to vest in the trustees any greater, or other estate, than was in the forfeiting person, or than the king may legally have; since thereby not only many innocent persons, who come in by descent or purchase, or other valuable considerations, might suffer equally as criminals, but it is possible, that men, who, with the utmost hazard of their lives have been defending the government, may forfeit as traitors: And they cannot apprehend, that by any law of this land, or by any rule of reason or justice, any person ought to be outlawed after death, since it is condemning a man unheard, allowing him no opportunity of making his innocence appear. 4. The lords admit the resumption of the forfeited estates in Ireland to be a thing necessary, by reason of the great debt due to the army and others, which they earnestly desire to see discharged, and are therefore very willing and desirous to give their consents to any reasonable bill the commons shall send them up to that purpose: But the lords can by no means consent, that the commons shall take upon them to dispose of any of the said forfeitures to any private persons, it being the sole and undoubted right of the crown to be the distributer of all bounties, and being contrary to all the laws and course of parliaments, to give aids, supplies, or grants, to any but the king only; and as the contrary practice is totally new and unprecedented, so, in process of time, it may become of the last ill consequence to the public. 5. The lords cannot agree to the clauses that create an incapacity in the commissioners or managers of the excise for sitting in this parliament, because the qualifications of members to serve in parliament is a thing [if] proper to be meddled with at all, that hath been thought fit by the commons to be in a bill by itself; and the joining together, in a money-bill, things so totally foreign to the methods of raising money, and to the quantity or qualification of the sums to be raised, is wholly destructive of the freedom of debates, dangerous to the privileges of the lords, and to the prerogative of the crown: For by this means things of the last ill consequence to the nation may be brought into money-bills, and yet neither the lords, nor the crown, be able to give their negative to them, without hazarding the public peace and security: And it seems a great hardship to the counties and places, who chuse such members, to deprive them of their services, since they knew them to be commissioners of excise at the time they chose them; and since the commons admit them to be proper persons to serve either in excise or parliament, though not at the same time; so that there seems to be no other reason of distinguishing these commissioners, but what is common to all other officers of the crown; and the question, whether such an alteration may be convenient, must needs be a doubt with the lords, since the commons have not been able this very session to satisfy themselves with the bill, and the considerations they have entertained upon that subject: The lords do seriously consider the dangers and inconveniences that are likely to happen by the loss of this bill, and by the difference betwixt the two houses, and are heartily sorry for them, and desirous to avoid them by all the means they can; as does manifestly appear, by having complied and overlooked the irregularities of bills of the like nature, and at the same time, by entering in their books, to be seen by every body, their just sense of the wrong, and their resolutions of asserting that fundamental right, of the exercise of which there are many precedents extant in their books: But since they find, that such their kind intentions of maintaining a good correspondence with the commons have had no other effect, but to introduce greater impositions upon them, and such as will certainly prove destructive to the antient and excellent constitution of our government, since the lords have no objection to the resumption, nor no design to invade the least right of the commons, but only to defend their own, that they may transmit the government and their own rights and privileges to their posterity in the same state and condition that they were derived down to them from their ancestors; they think themselves wholly discharged from being in the least accessary to any such dangers or inconveniences, and conceive they are sufficiently justified before God and man, notwithstanding such innovations and invasions upon our constitution and our laws as must necessarily prove the destruction of them. (Signed) Norfolk, E. M., Mohun, Haversham, Say and Seal, Anglesea, R. Ferrers, Raby, J. Bridgewater, Culpeper, Howard, Southampton, Sandwich, Lonsdale, Bergevenny, Stamford, Audley, Herbert, Richmond, Pembroke, Bolton, North and Grey.

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An Address against Lord Chancellor Sommers negatived.] April 10. This condescension of the Lords in passing this Bill, did not wholly appease the Commons, who, pursuing their resentment against the present ministry, put the question, "That an Address be made to his majesty, to remove John lord Sommers, lord chancellor of England, from his presence and councils for ever;" which though it was carried in the negative, by reason of the acknowledged merit and great services of that peer, yet it was Resolved, "That an Address be made to his majesty, that no person who was not a native of his dominions, except his royal highness prince George of Denmark, be admitted to his majesty's councils in England or Ireland *."

The Parliament prorogued and dissolved.] April 11. The king did not think it proper to receive any such Address, and therefore to prevent the offer of it, his majesty came this day to the house of peers, and after passing a number of bills, commanded the earl of Bridgewater to prorogue the parliament to the 23d of May †. It was afterwards dissolved on the 19th of December; and a New Parliament

* "The lord Sommers, during these debates, was ill; and the worst construction possible was put upon that; for it was said, that he advised all the opposition, which was made to the Bill, in the house of lords, but that, to keep himself out of it, he feigned that he was ill; though his great attendance, in the court of Chancery, the house of lords, and at the council-table, had so impaired his health, that every year, about that time, he used to be brought very low, and disabled from business. The king seemed resolved to venture on all the ill consequences, that might follow the losing this Bill, though they would probably have been very fatal. As far as could be judged, either another session of that parliament, or a new one, would have banished the Favourites, and begun the Bill anew, with the addition of obliging the Grantees to refund all the mean profits. Many in the house of lords, who in all other things were very firm to the king, were for passing this Bill, notwithstanding his earnestness against it, since they apprehended the ill consequences, that were like to follow, if it were lost. Bishop Burnet was one of these, and the king was much displeased with him for it. The bishop said, That he would venture his majesty's displeasure, rather than please him in that, which he feared would be the ruin of his government; not apprehending at that time, what injustice lay under many of the clauses in the Bill, which appeared afterwards so evidently, that the very same persons, who drove on the bill, were convinced of them, and redressed some of them in acts, that passed in subsequent sessions.—The king became sullen upon all this, and upon the many incidents, that are apt to fall in upon debates of this nature. He either did not apprehend in what such things might end, or he was not much concerned at it. His resentment, which was much provoked, broke out into some instances, which gave such handles to his enemies, as they wished for; and they improved those advantages, which his ill conduct gave them, with much spite and industry, so as to alienate the nation from him. It was once in agitation among the party, to make an Address to him against going beyond sea; but even that was diverted with a malicious design. Hitherto the body of the nation retained a great measure of affection to him. This was beginning to diminish by his going so constantly beyond sea, as soon as the session of parliament was ended, though the war was now over. Upon this it grew to be publicly said, that he loved no Englishman's face nor his company. His enemies therefore reckoned it was fit for their ends to let that prejudice increase in the minds of the people, till they might find a proper occasion to ingraft some bad designs upon it." Tindal.

"The Bishop says, if he had rightly understood that matter in time, he would never have given his vote for so unjust a bill. He only considered it as an hardship put on the king, many of his grants being thus made void, some of which had not been made on good and reasonable considerations, so that they could hardly be excused, much less justified. He thought the thing was a sort of force, to which it seemed reasonable to give way at that time, since the king's friends were not furnished with an equal strength to withstand it. But, when he saw afterwards, what the consequences of this act proved to be, he firmly resolved never to consent again to any tack to a money-bill, as long as he lived." Tindal.

† "The king wrote the following Letter to the earl of Galway, soon after the prorogation of the parliament: 'Hampton-court, May 11, '1700. It is a good while since I wrote to you 'last. The reason is, that, being always uncer-'tain of the issue of the last session of parlia-'ment, I was unwilling to answer any of your 'letters You may judge, what vexation all 'their extraordinary proceedings gave me, and 'I assure you, your being deprived of what I 'gave you, with so much pleasure, was not the 'least of my griefs. I hope, however, that I 'shall be in a condition to acknowledge the good 'services you have done me, and you may de-'pend upon it, I shall earnestly seek occasions 'to do so. It ought to be some satisfaction to 'you, in the just resentment of what concerns 'you, that no body could blame your conduct; 'on the contrary, all appeared satisfied with it, 'and the vote, which passed in anger the last 'day, concerns you but indirectly. And I can 'assure you, that you was in no way the occa-'sion of it. There have been so many intrigues, 'in this last session, that, without having been 'on the spot and well informed of every thing, 'it cannot be conceived. It will be impossible 'for me to continue the commission of the 'Lords Justices in Ireland, as it is at present; 'so I have resolved to send thither the duke of

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called, to meet at Westminster on the 6th of Feb. following ‡.

A remarkable Act against Papists.] Among the Acts of this session, a very remarkable one passed against the Papists. A complaint being made by the clergy of Lancashire, of the growth of Popery, and a petition offered for more effectual methods to put a stop to it, a bill was proposed, that obliged all persons educated in that religion, or suspected to be of it, who should succeed to any estate before they were of the age of eighteen, to take the oaths of allegiance and supremacy, and the test, as soon as they came to that age; and, till they did it, the estate was to devolve to the next of kin, that was a protestant; but was to return back to them, upon their taking the oaths. All popish priests were also banished by the bill, and were adjudged to perpetual imprisonment, if they should again return into England; and the reward of an hundred pounds was offered to every one, who should discover a popish priest, so as to convict him. Those, who brought this into the house of commons, hoped, that the court would have opposed it; but the court promoted the bill; so, when the party saw their mistake, they seemed willing to let the bill fall; and when that could not be done, they clogged it with many severe and some unreasonable clauses, hoping that the lords would not pass the act; and it was said, that, if the lords should make the least alteration in it, they, in the house of commons, who had set it on, were resolved to let it lie on their table, when it should be sent back to them. Many lords, who secretly favoured papists, on the Jacobite account, did for this very reason, move for several alterations; some of these importing a greater severity; but the zeal against popery was such in that house, that the bill past without any amendment, and it had the royal assent.

Lord Sommers removed from Administration.] "The session being ended so much to the dissatisfaction of all parties, the leaders of the Tories seemed resolved to push a change of ministry. They began with insinuating to the Favourites the necessity of the king's removing the lord Sommers, who, as he was now considered as the head of the Whigs, so his wise counsels, and his modest way of laying them before the king, had gained him a great share of his esteem and confidence; and it was reckoned, that the chief strength of the party lay in his credit with the king, and in the prudent methods he took to govern the party, and to moderate that heat and those jealousies, with which the king had been so long disgusted, in the first years of his reign. Every method had been tried for his removal. He had, in the first place, been particularly charged in the house of commons, for turning many gentlemen out of the Commission of the Peace. This was much aggravated, and raised a very high complaint against him; but there was no just cause for it: When the design of the Assassination and Invasion, in 1695 and 1696, was discovered, a Voluntary Association was entered into, by both houses of parliament, and that was set round the nation: In such a time of danger, it was thought, that those, who did not enter voluntarily into it, were so ill affected, or at least so little zealous for the king, that it was not fit they should continue justices of peace: So an order passed in council, that all those, who had so refused, should be turned out of the commission: He had obeyed this order, upon the representations made to him, by the lords lieutenants and the Custodes Rotulorum of the several counties, who were not all equally discreet: Yet he laid those representations before the council, and had a special order for every person, that was so turned out. All this was now magnified, and it was charged on him, that

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'Shrewsbury as viceroy, and that you command the army under him. Do not think 'that this will be a degradation, no body here 'will take it so be so, and I know that every 'one wishes it, and believes it absolutely necessary for my service. I am fully persuaded, 'as I hope that you will not refuse to accept 'of this command, nor relinquish my service. 'I assure you, I never had more occasion, than 'at present, of persons of your capacity and 'fidelity. I hope I shall find opportunities to 'give you marks of my esteem and friendship, 'and I would not engage you in this, were I 'not assured that no hurt can happen to you 'from it: but I know it will meet with a general 'approbation, and doubt not your friends will 'say the same, and I am glad to tell you, you 'have a great many and among all parties. 'WILLIAM R." See Tindal.

* "Before we leave this session of parliament, we must take notice of a passage that made at that time a great deal of noise: the Commons having appointed one Mr. Stephens to preach before them on the 30th of January, that minister, who, it seems, was tainted with Republican principles, instead of asserting the rights and prerogatives of monarchy, and suiting his Sermon to the occasion, which was a day of humiliation for the Murder of king Charles I. by his rebellious subjects, he exalted the power of the people; preached up the exploded opinions that were the first cause of that bloody and horrid particide; and would have persuaded his honourable auditors, that the observation of this fact, which has always been religiously kept by all parliaments, should be utterly abolished: besides which it was remarked, that he omitted praying for the Parliament, and every branch of the royal family. The next day a motion being made, and the question put, That the Thanks of the house be given to Mr. Stephens for his sermon, it was carried in the negative, and Resolved, That for the future, no person be recommended to preach before the House, who is under the dignity of a Dean in the Church, and has not taken his degree of Doctor in Divinity." Life of King William, vol. iii. p. 419.

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he had advised and procured these orders; yet this could not be made so much as a colour to proceed against him, a clamour and murmuring was all that could be raised from it. This method not having produced any great effects, another had been tried. It had been endeavoured to raise a dissatisfaction against him by Appeals from many of his judgments, yet very few of them received alteration, and his character was raised instead of being hurt by these attacks. After these and other methods of shaking lord Sommers's credit had failed, the Tories now studied to get it infused into the king, that all the hard things, that had been of late put on him by the parliament, were occasioned by the hatred, that was borne to his ministers; and that, if his majesty would change hands, and employ others, matters might be softened and mended in another parliament. With this the earl of Jersey endeavoured to possess the earl of Albemarle; and the uneasiness the king was in, disposed him to think, that, if he should bring in a set of Tories into his business, they would serve him with the same zeal, and with better success, than the Whigs had done; and he hoped to throw all upon the ministers, that were now to be dismissed.—The first time that the lord Sommers recovered so much health, as to come to court, the king told him, That it seemed necessary for his service, that he should part with the Seals; and he wished, that he would make the delivering them up his own act. Upon this, the lord Sommers took the liberty to speak freely to the king, in words to this effect: That he very well knew what his enemies aimed at by their abusing and persecuting him as they had of late done: The Seal was his greatest crime; and, if he quitted that, he should be forgiven; but, knowing what ill use would be made of it, if it were put into their hands, he was resolved, with his majesty's permission, to keep it in defiance of their malice, and to stand all the trials they should put upon him, with the support of his innocence, and the hopes of being serviceable to his majesty: He feared them not; and did not doubt, but, if his majesty would be as firm to his friends as they would be to him, they should be able to carry whatever points he had in view for the public welfare, in a new parliament. The king shook his head a little, as a sign of his diffidence, and only said, 'It must be so'*. However, the lord Sommers persisted in refusing to deliver up the Seals as his own act. All his friends had pressed him not to offer them, since that seemed to shew fear or guilt. He begged therefore the king's pardon, if in this he followed their advice; but he told his majesty, whenever he should send a warrant under his hand, commanding him to deliver them up, he would immediately obey it. The order was accordingly brought by lord Jersey on the 17th of April 1700, and upon it the Seals were sent to the king. Thus the lord Sommers was discharged from this great office, which he had held seven years with a high reputation for capacity, integrity, and diligence. This was done with so much haste, that those, who had prevailed with the king to do it, had not yet concerted who should succeed him. They thought, that all the great men of the law were aspiring to that high post, so that any one, to whom it should be offered, would certainly accept it; but they soon found they were mistaken; for, what by reason of the instability of the court, what by reason of the just apprehensions men might have of succeeding so great a man, both the lord chief justice Holt, and the attorney-general Trevor, to whom the Seals were offered, excused themselves. It was term-time, so that a vacancy in that post put things in some confusion. A temporary commission was granted to the three chief judges, to sit in the court of Chancery; and, on the 21st of May, the Seals were at last given, with the title of Lord-Keeper, to sir Nathan Wright, one of the king's serjeants at law, in whom there was nothing equal to the post, much less to him who had lately filled it. The king's inclinations seemed now turned to the Tories, and to a new parliament."*

The King goes to Holland.—Honours and Promotions.] The king, that he might give some content to the nation, stayed at Hampton-Court till July, before he went abroad. On the 14th of May, he bestowed the Garter on the earl of Albemarle. The same honour was also conferred on the earl of Pembroke, Lord President of the Council. Towards the latter end of June, the earl of Jersey was made Chamberlain of the Houshold; which had been some time vacant, by the duke of Shrewsbury's resignation. The earl of Romney was made Groom of the Stole, and the earl of Carlisle one of the lords of the Bed-chamber. The king, having nominated the Lords Justices to govern in his absence, set out for Holland, on the 4th of July, from whence he returned on the 18th of October.

First Session of the Fifth Parliament of King William III.

List of the House of Commons.] Feb. 6, 1700-1. This day the New Parliament met at Westminster. The following is a List of the Members of the House of Commons:

Abingdon,	*Allerton, North,*
Simon Harcourt.	Sir Will. Hustler,
Agmondesham,	Ralph Millbank.
Sir John Garrard,	*Andover,*
Sir Samuel Garrard.	John Smith,
Albans, (St.)	Francis Sheppard.
George Churchill,	*Anglesea,*
John Gape.	Richard Bulkeley.
Aldborough, (Suffolk)	*Appleby,*
Sir Henry Johnson,	Gervis Pierrepoint,
Sir William Johnson.	Wharton Dunch.
Aldborough, (Yorksh.)	*Arundel,*
Robert Moncton,	John Cook,
Cyril Arthington.	Edmund Dummer.

* A gentleman, who had this from the lord Sommers's own mouth, told it to Mr. Oldmixon.

* Tindal.

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Ashburton,
Wm. Stawell,
Richard Duke.
Aylsbury,
Sir Tho. Lee,
James Herbert.
Banbury, (d. ret.)
Charles North,
John Dormer.
Barnstaple,
Nicholas Hooper,
Arthur Champneys.
Bath,
Alex. Popham,
Wm. Blaithwayt.
Beaumaris,
Coningesby Williams.
Bedfordshire,
Lord Russel,
Sir Wm. Gostwick.
Bedford Town,
Samuel Rolt,
William Spencer.
Bedwin,
Francis Stonehouse,
Charles Davenant.
Berkshire,
Sir Humphry Forster,
Richard Nevil.
Berwick,
Lord Grey,
Samuel Ogle.
Beverly,
Sir Michael Wharton,
Ralph Wharton.
Bewdley,
Salway Winnington.
Bishops Castle,
Charles Mason,
George Walcot.
Bletchingly,
Sir Edw. Gresham,
John Ward.
Bodmin,
Russel Roberts,
John Hoblyn.
Boralston,
Peter King,
William Cowper.
Boroughbridge,
Sir Henry Goodrick,
Sir Brian Stapleton.
Bossiney,
John Tregagle,
Francis Roberts.
Boston,
Edmund Boulter,
Sir Wm. York.
Brackley,
Charles Mordaunt,
Henry Mordaunt.
Bramber,
Thomas Stringer,
Thomas Owen.
Brecon County,
Sir Rowland Gwynn.
Brecon Town,
Sir Jeffery Jeffreys.
Bridgwater,
John Gilbert,
George Balch.
Bridport,
Alex. Pitfield,
William Gulston.
Bristol,
Robert Yates,
Sir Wm. Daines.
Bridgnurth,
Sir Edward Acton,
Roger Pope.
Bucks County,
Goodwyn Wharton,
Lord Cheyne.
Buckingham,
Sir Richard Temple,
Sir Edmund Denton.
Calne,
Walter Long,
Walter Hungerford.
Cambridgeshire,
Lord Cutts,
Sir Rushout Cullen.
Cambridge Town,
Sir John Cotton,
Sir Henry Pickering.
Cambridge University,
Henry Bovle,
Anthony Hammond.
Camelford,
Henry Manaton,
Dennis Glynn.
Canterbury,
George Sayer,
Henry Lee,
Cardiffe,
Sir Edward Stradling.
Cardiganshire,
SirHumphry Mackworth.
Cardigan Town,
John Lewis.
Carlisle,
Philip Howard,
James Lowther.
Carmarthenshire,
Sir Rice Rudd.
Carmarthen Town,
Richard Vaughan.
Carnarvonshire,
Thomas Bulkeley.
Carnarvon Town,
Sir John Wynn.
Castle Rising,
Thomas Howard,
Robert Walpole.
Cheshire,
Sir John Manwairing,
Sir Robert Cotton.
Chester Town,
Sir Henry Bunbury,
Peter Shackerly.
Chichester,
Sir Thomas May,
William Elson.
Chippenham,
Lord Mordaunt,
Walter White.
Chipping Wicomb,
Charles Godfrey,
Fleetwood Dormer.
Christ's Church,
Lord Cornbury,
William Ettricke.
Cirencester,
James Thynn,
Charles Cox.
Clifton,
Frederick Herne,
Nathaniel Herne.
Clithero,
Christopher Lister,
Thomas Stringer.
Cockermouth,
William Seymour,
Sir George Fletcher.
Colchester,
Sir Thomas Cook,
Sir Isaac Rebow.
Corfeastle,
John Banks,
Richard Fownes.
Cornwal,
Hugh Boscawen,
John Specott.
Coventry,
Sir Christopher Hales,
Thomas Hopkins.
Cricklade,
Edmund Dunch,
Sir Stephen Fox.
Cumberland County,
Richard Musgrave,
Jeffrey Lawson.
Denbigh County,
Sir Richard Middleton.
Denbigh Town,
Edward Brereton.
Derbyshire,
Wm. Marq. of Hartington
Lord Roos.
Derby Town,
James Cavendish,
Sir Charles Pye.
Devizes,
Sir Francis Child,
Francis Merewether.
Devonshire,
William Courtney,
Samuel Roile.
Dorsetshire,
Thomas Strangeways,
Thomas Trenchard.
Dorchester,
Nathaniel Napier,
Thomas Trenchard.
Dover,
Sir Charles Hedges,
Matthew Aylmer.
Downton,
John Eyre,
Carew Raleigh.
Droitwich,
Thomas Foley,
Charles Cocks.
Dunwich,
Sir Charles Blois,
Robert Kemp.
Durham County,
Wm. Lambton,
Lionel Vane.
Durham City,
Charles Montagu,
Thomas Conyers.
Eastlow,
Francis Godolphin,
Sir Henry Seymour.
Edmunds Bury,
Sir Robert Davers,
John Hervey.
Essex,
Sir Charles Barrington,
Sir Francis Masham.
Evesham,
Sir James Rushout,
John Rudge.
Exeter,
Sir Edward Seymour,
Sir Bartholomew Shower.
Eye,
Spencer Compton,
Sir Joseph Jekyll.
Flintshire,
Sir John Conway.
Flint Town,
Thomas Mostyn.
Fowey,
John Williams,
John Granville.
Gatton,
Thomas Turgis,
Maurice Thomas.
Germans, (St.)
John Specott,
Henry Fleming.
Glamorgan County,
Thomas Mansel.
Gloucestershire,
John Howe,
Sir Richard Cocks.
Gloucester City,
William Selwyn,
John Bridgman.
Grampound.
Sir Wm. Scawen,
Francis Scobell.
Grantham,
Tho. Baptist Manners,
Sir Wm. Ellis.
Grimsby,
William Cotesworth,
Thomas Vyner.
Grimstead,
John Conyers,
Matthew Prior.
Guildford,
Morgan Randyl,
Denzil Onslow.
Harwich,
Sir Thomas Daval,
Dennis Lyddell.
Haslemere,
Sir Theo. Oglethorpe,
George Woodroff.
Hastings,
John Pulteney,
Peter Gott.
Haverford West,
Wm. Wheeler.
Helston,
Charles Godolphin,
Sidney Godolphin.
Herefordshire,
Sir John Williams,
Henry Gorges.
Hereford City,
Thomas Foley,
James Bridges.
Hertford County,
Ralph Freeman,
Thomas Halsey.
Hertford Town,
Charles Cæsar,
Thomas Filmer.

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Heydon,
Sir Robert Bedingfield,
Anthony Duncombe.
Heytesbury,
William Ash,
Edward Ash.
Higham Ferrers,
Thomas Ekins.
Hindon,
Sir James Howe,
George Morley.
Honiton,
Sir William Drake,
Sir Walter Yonge.
Horsham,
Henry Yates,
Henry Cowper.
Huntingdonshire,
John Dryden,
John Proby.
Huntingdon Town,
Charles Boyle,
Francis Wortley.
Hythe,
Sir Philip Boteler,
John Boteler.
Ilcester,
Sir Philip Sydenham,
James Anderson.
Ipswich,
Joseph Martin,
Sir Charles Duncombe.
Ives (St.)
James Praed,
Benjamin Overton.
Kellington,
Sir William Coryton,
Robert Rolle.
Kent,
Sir Thomas Hale,
Thomas Meredith.
Kingston,
Sir William St. Quinten,
William Maisters.
Knaresborough,
Robert Byerley,
Christopher Stockdale.
Lancashire,
James Stanley,
Richard Bold.
Lancaster Town,
Robert Heysham,
Roger Kirkby.
Lanceston,
Lord Hyde,
William Carey.
Leicestershire,
John Verney,
John Wilkins.
Leicester Town,
Sir William Villers,
Lawrence Carter.
Leominster,
Lord Coningesby,
Edward Harley.
Leskard,
William Bridges,
Henry Darel.
Lestwithiel,
Sir John Molesworth,
John Buller.
Lewes,
Thomas Pelham,
Sir Thomas Travers.
Lincolnshire,
Charles Dymock,
Sir John Thorold.
Lincoln City,
Sir John Bolles,
Sir Thomas Meers.
Litchfield,
Richard Dyott,
William Walmsley.
Liverpool,
William Clayton,
Sir William Norris.
London,
Sir Robert Clayton,
William Ashurst,
William Withers,
Sir John Fleet.
Ludlow,
Sir Thomas Powis,
William Gower.
Luggershall,
Edmund Webb,
John Webb.
Lyme-Regis,
Robert Henley,
Joseph Paice.
Lymington,
Thomas Dore,
Paul Burrard.
Lynn-Regis,
Sir John Turner,
Sir Charles Turner.
Maidstone,
Sir Robert Marsham,
Thomas Bliss.
Malden,
Irby Montagu,
William Fyche.
Malmsbury,
Edward Pancefort,
Samuel Shephard.
Malton,
Sir William Strickland,
William Palmes.
Marlborough,
Rd. Earl of Ranelagh,
John Jeffreys.
Marlow,
Sir James Etheridge,
James Chase.
Maxes (St.)
Sir Joseph Tredenham,
John Tredenham.
Melcombe-Regis,
Maurice Ashley,
Michael Harvey.
Merioneth,
Hugh Vaughan.
Midhurst,
John Lukener,
Lawrence Alcock.
Middlesex,
Hugh Smithson,
Warwick Lake.
Milbourn,
Sir Thomas Travel,
Sir Richard Newman.
Minchead,
Alexander Lutterell,
Sir Jacob Banks.
Michael (St.)
William Beau,
Anthony Rowe.
Monmouthshire,
Sir John Williams,
John Morgan.
Monmouth Town,
John Morgan.
Morpeth,
William Howard,
Sir Henry Bellasis.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
John Vaughan.
Newark,
John Rayner,
Sir George Markham.
Newcastle, (Stafford)
Sir John Levison Gower,
R. Cotton.
Newcastle upon Tine,
William Carr,
Sir Henry Lyddel.
Newport, (Cornwall)
Francis Stratford,
John Prideaux.
Newport (Hants)
Lord Cutts,
Henry Greenhill.
Newton, (Lancashire)
Thomas Leigh,
Thomas Brotherton.
Newton, (Hants)
James Worsley,
Thomas Thompson.
Norfolk,
Roger Townshend,
Sir Jacob Astley.
Northamptonshire,
Sir Justinian Isham,
John Packhurst.
Northampton Town,
Christopher Montagu,
William Thursby.
Northumberland,
Ferdinand Forster,
William Howard.
Norwich,
Robert Davy,
Thomas Blofield.
Nottinghamshire,
Sir Thomas Willoughby,
Jervas Eyre.
Nottingham Town,
William Pierrepont,
Robert Sacheverel.
Okehampton,
William Harris,
Thomas Northmore.
Oxford,
Sir Edmund Bacon,
Sir Edward Turner.
Oxfordshire,
Sir Robert Jenkinson,
Sir Edward Norris.
Oxford City,
Thomas Rowney,
Francis Norris.
Oxford University,
Heneage Finch,
Sir Christ. Musgrave.
Pembrokeshire,
Sir Arthur Owen.
Pembroke Town,
Sir John Philips.
Penryn,
Samuel Trefusis,
Alexander Pendarvis.
Peterborough,
Sidney Wortly,
Gilbert Dolben.
Petersfield,
Ralph Bucknall,
Richard Markes.
Plymouth,
Charles Trelawney,
Henry Trelawney.
Plimpton,
Courtney Croker,
Martin Ryder.
Pool,
Sir William Phippard,
William Joliff.
Pontefract,
Sir John Bland,
John Bright.
Portsmouth,
Thomas Erle,
Sir George Rook.
Preston,
Edward Rigby,
Henry Ashurst.
Queenborough,
Robert Crawford,
Thomas King.
Radnor County,
Thomas Harley.
Radnor Town,
Robert Harley.
Reading,
Sir Owen Buckingham,
Francis Knollys.
Retford,
John Thornhaugh,
Sir Willoughby Hickman
Richmond,
Thomas York,
James Darcy.
Rippon,
John Aislaby,
Jonathan Jennings.
Rochester,
Sir Joseph Williamson,
Sir Cloudsley Shovel.
Romney,
Sir Charles Sedley,
John Brewer.
Rutlandshire,
Sir Thomas Mackworth,
Richard Halford.
Rye,
Sir Robert Austin,
Joseph Offley.
Ryegate,
Sir John Parsons,
Stephen Harvey.
Salop County,
Sir Humphrey Briggs,
Robert Lloyd.
Salop Town,
John Kynaston,
Richard Mytton.
Saltash,
Thomas Carew,
James Buller.
Sandwich,
John Taylor,

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John Michell.
Surum New,
Robert Eyre,
Sir Tho. Mompesson.
Sarum Old,
William Harvey,
Charles Mompesson.
Scarborough,
Arthur Visc. Irwyn,
Sir Charles Hotham.
Seaford,
Sir Wm. Thomas,
William Lowndes.
Shaftsbury,
Edward Nichols,
Thomas Chafin.
Shoreham,
Nathaniel Gould,
Charles Sergison.
Somersetshire,
Sir John Trevelyan,
John Hunt.
Southampton,
Thomas Jervoice,
Richard Chaundler.
Southampton Town,
Roger Mompesson,
Mitford Crow.
Southwark,
Charles Cox,
John Cholmondeley.
Staffordshire,
Henry Paget,
Edward Bagot.
Stafford Town,
John Chetwynd,
Thomas Foley.
Stamford,
William Cecil,
Charles Bertie.
Steyning,
Sir John Fagg,
Sir Edw. Hungerford.
Stockbridge,
Anthony Sturt,
John Pitt.
Sudbury,
Sir Jervas Elwes,
Sir John Cordell.
Suffolk,
Sir Sam. Barnardiston,
Lionel E. of Dysart.
Surry,
Sir Richard Onslow,
John Weston.
Sussex,
Henry Lumney,
John Miller.
Tenworth,
Sir Henry Gough,
Thomas Guy.
Tavistock,
Lord Edw. Russel,
Lord Rout. Russel.
Taunton.
Sir Francis Warre,
Edward Clarke.
Tewkesbury,
Richard Dowdeswell,
Edmund Bray.
Thetford,
Sir Joseph Williamson,
Edmund Soame.
Thirsk,
Sir Godfrey Copley,
Sir Thomas Frankland.
Tiverton,
Charles Spencer,
Thomas Bere.
Totness,
Francis Gwyn,
Thomas Coulston.
Tregony,
Francis Roberts,
Hugh Fortescu.
Truro,
Henry Vincent,
Hugh Fortescu.
Wallingford,
William Jennings,
Thomas Renda.
Warwickshire,
Sir John Mordaunt,
Sir Charles Shuckburgh.
Warwick Town,
Francis Greville,
Thomas Wagstaff.
Wareham,
George Pitt,
Thomas Erle.
Wells,
William Coward,
Henry Portman.
Wendover,
John Backwell,
Richard Hampden.
Wenlock,
Sir William Forester,
George Weld.
Weobly,
Henry Cornwal,
John Birch.
Westbury,
Robert Bertie,
Richard Bertie.
Westlow,
James Kendall,
John Mountsteven.
Westminster,
James Vernon,
Thomas Cross.
Westmoreland,
Henry Graham,
Sir Christ. Musgrave.
Weymouth,
Henry Thynne,
Charles Churchill.
Whitchurch,
Lord Russel,
Richard Woollaston.
Winchelsea,
Thomas Newport,
Robert Bristow.
Winchester,
Lord Powlett,
George Rodney Bridges.
Windsor,
Viscount Fitzharding,
Richard Topham.
Wilton,
John Gauntlett,
Thomas Phipps.
Wiltshire,
Sir George Hungerford,
Richard Howe.
Woodstock,
James Bertie,
Sir Tho. Littleton.
Wooton Basset,
Henry St. John,
Henry Pynnell.
Wigan,
Sir Roger Bradshaigh,
Orlando Bridgman.
Worcestershire,
William Walsh,
Sir John Packington.
Worcester City,
Thomas Wylde,
Samuel Swift.
Yarmouth, (Norfolk)
George England,
Samuel Fuller.
Yarmouth, (Hants)
Henry Holmes,
Anthony Morgan.
Yorkshire,
Lord Fairfax,
Sir John Kay.
York City,
Sir William Robinson,
Edward Thompson.

Speaker to this Parliament, Sir THOMAS LITTLETON.

Mr. Harley chosen Speaker.] Feb. 6. The New Parliament, according to the writs of summons, met at Westminster, and was prorogued to Monday the 10th, when the King came to the house of peers, and sending for the commons signified to them by the Lord Keeper, that they should forthwith proceed to the choice of a fit person to be their Speaker, and present him to his majesty. The next day, the commons returning to their house, made choice of Robert Harley, esq. * who was the next day presented and approved by the king.

The King's Speech on opening the Session.] After which, his majesty made this Speech to both houses:

"My Lords and Gentlemen; Our great misfortune in the loss of the duke of Gloucester,†

* "The man, on whose management of the house of commons, the new ministry depended, was Mr. Robert Harley, the heir of a family, which had hitherto been the most eminent of the Presbyterian party. His education was in that way; but he, not being considered at the Revolution, as he thought he deserved, had set himself to oppose the court in every thing, and to find fault with the whole administration. He had the chief hand both in the reduction of the army, and in the matter of the Irish Grants. The high party trusted him, though he still kept up an interest among the Presbyterians; and he had so particular a dexterity, that he made both the high church party and the Dissenters depend upon him; so it was agreed, that he should be Speaker.—Sir Thomas Littleton had been sent for by the king, who told him, that he thought it would be for his service, that he should give way at that time to Mr. Harley's being chosen into that office; which sir Thomas acquiesced in, and accordingly absented himself from the house on the day of election, when Mr. Harley, being the first person proposed for Speaker, and afterwards sir Richard Onslow named by others, the former had 249 votes for him, against 125 in the negative." Tindal.

† "By the death of the duke of Gloucester, the protestant interest was exposed to new dangers; for as he was the last protestant heir in the act of settlement, so his relation to the exiled family, his birth within the kingdom, and his talents, which were promising, united the attachment of every party, and ensured his peaceable accession, at some future day, to the throne of England." Somerville.

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hath made it absolutely necessary that there should be a further provision for the Succession to the Crown in the Protestant line, after me and the princess. The happiness of the nation, and the security of our Religion, which is our chiefest concern, seems so much to depend upon this, that I cannot doubt but it will meet with a general concurrence: And I earnestly recommend it to your early and effectual consideration.—The death of the late king of Spain, with the Declaration of his Successor to that monarchy, has made so great an alteration in the affairs abroad, that I must desire you very maturely to consider their present state; and I make no doubt but your resolutions thereupon will be such, as shall be most conducing to the interest and safety of England, the preservation of the Protestant Religion in general, and the peace of all Europe.—These things are of such weight, that I have thought them most proper for the consideration of a New Parliament, to have the more immediate sense of the kingdom in so great a conjuncture.—I must desire of you, Gentlemen of the House of Commons, such Supplies as you shall judge necessary for the service of the current year; and I must particularly put you in mind of the Deficiencies and Public Debts occasioned by the late War, that are yet unprovided for.—I am obliged further to recommend to you, that you would inspect the condition of the Fleet, and consider what repairs or augmentations may be requisite for the Navy, which is the great bulwark of the English nation, and ought, at this conjuncture most especially, to be put into a good condition; and that you would also consider, what is proper for the better security of those places where the ships are laid up in winter.—The Regulation and Improvement of our Trade, is of so public concern, that I hope it will ever have your serious thoughts; and if you can find proper means of setting the Poor at work, you will ease yourselves of a very great burthen; and at the same time add so many useful hands to be employed in our manufactures, and other public occasions.—My Lords and Gentlemen; I hope there will be such an agreement and vigour in the resolutions you shall take, upon the important matters now before you, as may make it appear, we are firmly united among ourselves; and in my opinion nothing can contribute more to our safety at home, or to our being considerable abroad."

Address of the Commons to support the King.] The Commons spent the two succeeding days in qualifying themselves; and on the 13th began with the business of Bribery in Elections, which was a matter of long debates and censures. * On the 14th, upon reading his majesty's Speech, they came to this Resolution; on a division Yeas 181; Noes 160: "That they would stand by and support his majesty and his government, and take such effectual measures as may best conduce to the interest and safety of England, the preservation of the Protestant Religion, and the peace of Europe."

The King's Answer.] This Resolution was presented to his majesty by the whole house, on the 17th; the king gave them this Answer:

* "As soon as the parliament was opened, it appeared, that the French had a great party in it. It is certain, great sums came over this winter from France; the pacquet-boat came seldom without 10,000 Louis d'Ors: it often brought more. The nation was filled with them, and in six months time a million of guineas were coined out of them. The merchants indeed said, that the balance of trade was then so much turned to our side, that whereas we used to carry over a million of our money in specie, we then sent no money to France, and had at least half that sum sent over to balance the trade. Yet this did not account for that vast flood of French gold, that was visible in the nation. And, upon the departure of M. de Tallard, the French embassador, whose place was supplied by M. Poussin, with the character only of Secretary, a very visible alteration was found in the bills of exchange. For which reason it was concluded that great remittances had been made to that ambassador, and that these were distributed among those, who resolved to merit a share in that wealth, which came over so copiously beyond the example of former times.—Upon the view of the house it appeared evidently, that the Tories were a great majority; yet they, to make the matter sure, resolved to clear the house of a great many, who were engaged in another interest. Reports were brought to them of Elections, that had been scandalously purchased by some, who were concerned in the new East-India Company. Instead of drinking and entertainments, by which elections were formerly managed, now a most scandalous practice was brought in of buying votes, with so little decency, that the electors engaged themselves by subscriptions to chuse a blank person, before they were trusted with the name of their candidate. The old East-India Company had driven a course of corruption within doors with so little shame, that the new company intended to follow their example, but with this difference, that, whereas the former had bought the persons, who were elected, they resolved to buy elections. Sir Edward Seymour, who had dealt in this corruption his whole life-time, and when the old company was said to have bought before at a very high price, brought before the house of commons the discovery of some of the practices of the new company. The examining of these took up many days. In conclusion, the matter was so well proved, that several elections were declared void; and some of the persons so chosen were for some time kept in prison, after they had been expelled the house. In these proceedings great partiality appeared; for, when in some cases corruption was proved clearly against some of the Tory party, and but doubtfully against some of the contrary side, that, which was voted corruption in the Whigs, was called the giving alms in the Tories." Tindal.

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"I thank you for this Address *, and your ready concurrence to those great ends therein mentioned, which I take to be extremely important to the honour and safety of England; and I assure you, I shall never propose any thing but what is for our common advantage and security. Having this occasion, I think it proper to acquaint you, that yesterday I received a Memorial from the Envoy extraordinary of the States General, a translation whereof I leave with you: As to the first part of it, I think it necessary to ask your Advice, as to the latter part I desire your Assistance."

A second and third Address.] Upon the Report of the king's Answer, to their Address abovementioned, the Commons farther resolved, "That an humble Address be made to his majesty, that he will please to cause the Treaty between England and the States General of the 3rd of March 1677, and all the renewals thereof since that time, to be laid before the house." Which his majesty commanded to be done by Mr. Secretary Hedges. And the house was so well satisfied, that on the 20th they resolved, "That an humble Address be made to his majesty, that he will please to enter into such Negotiations, in concert with the States-General of the United Provinces, and other potentates, as may most effectually conduce to the mutual safety of these kingdoms, and the States-General, and the preservation of the peace of Europe; and giving him assurances of support and assistance, in performance of the Treaty made with the States-General, the 3rd of March 1677."

The King's Answer.] This Address was presented by the whole house on the 21st. And his majesty was pleased to return the following Answer:

"Gentlemen; I thank you heartily for the Advice you have given me, and your unanimous Resolution to support and assist me, in making good the Treaty mentioned in your Address; and I will immediately order my ministers abroad, to enter into negotiations in concert with the States-General, and other potentates, for the attaining those great ends which you desire. Nothing can more effectually conduce to our security, than the unanimity and vigour you have shewed on this occasion: and I shall always endeavour on my part to preserve and increase this mutual trust and confidence between us."

The King communicates to both Houses the Earl of Melfort's Letter to the Earl of Perth.] Feb. 17. Mr. Secretary Vernon communicated to the Commons by his majesty's orders a Letter, which came to London not designedly, as is supposed, in the French mail. This letter was dated the 18th Feb. N. S. and was written by the earl of Melfort to his brother the earl of Perth, then governor to the pretended prince of Wales. It contained his schemes to set on foot another Invasion, and discovered that he held a close correspondence with the earl of Arran, now duke of Hamilton. Melfort urged in it many arguments, to get the earl of Middleton discarded, and recommended himself, as much fitter to be trusted.

Address of the Lords on the King's Speech.] This Letter was also communicated to the house of lords, who ordered it to be printed, and the next day presented an Address to the king, "humbly returning their thanks and acknowledgments to his majesty for his concern expressed in his Speech for the Protestant Religion, and his care for its preservation, by recommending to their consideration a further provision for the Succession to the crown in the Protestant line. They added, that, being deeply sensible of the weight of what his majesty had further recommended to them, they could not but desire he would be pleased to order all Treaties made by him, since the late war, to be laid before them, that they might thereby be better enabled to give their advice. They likewise requested his majesty to engage in such alliances abroad, as he should think proper for preserving the balance of Europe, assuring him, that they would readily concur with whatever should be conducive to the honour and safety of England, preservation of the Protestant Religion, and the peace of Europe. Next they humbly thanked his majesty for communicating the earl of Melfort's Letter to them, and desired he would be pleased to order the seizing of all horses and arms of Papists, and other disaffected persons, and have those ill men removed from London, according to law; but especially they desired he would please to give directions for a search to be made after arms and provisions of war mentioned in the letter. Lastly, they requested, that such a fleet might speedily be fitted out, as his majesty in his great wisdom should think necessary for the defence of himself and kingdoms."

His majesty thanked their lordships for this Address, and for the concern they expressed in relation to the common security both at home and abroad; and told them, he would give the necessary orders for those things they desired of him, and take care for fitting out such Ships, as in that conjuncture should be necessary for their common safety.

First Vote in relation to the Protestant Succession.] March 3. On consideration of that part of his maj.'s Speech, which related to the Succession, the commons resolved, "That for the preserving the peace and happiness of this kingdom, and the security of the Protestant Religion by law established, it is absolutely

* "A design was laid in the house of commons, to open the session with an Address to the king, that he would own the king of Spain. The matter was so far concerted, that they had agreed on the words of the Vote, and seemed not to doubt of the concurrence of the house. But Mr. Monkton opposed it with great heat, and among other things said, That if this Vote was carried he should expect, that the next vote would be for owning the pretended prince of Wales." Tindal.

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necessary, a further Declaration be made of the Limitation and Succession of the crown, in the Protestant Line, after his majesty, and the princess, and the heirs of their bodies respectively. And that farther Provision be first made, for Security of the Rights and Liberties of the people."

Heads of the Bill of Succession.] March 12. Mr. Conyers reported the further Resolutions of the Committee appointed for that purpose; and the house did then agree and resolve, 1. "That all things relating to the well-governing of this kingdom, which are properly cognizable in the Privy-Council, shall be transacted there, and all Resolutions, taken thereupon, shall be signed by the Privy-Council. 2. That no person whatsoever, that is not a native of England, Scotland or Ireland, or the dominions thereunto belonging; or who is not born of English parents beyond the seas (although such person be naturalized or made denison) shall be capable of any grant of lands, tenements or hereditaments from the crown, to himself, or any other in trust for him. 3. That upon the further limitation of the crown, in case the same shall hereafter come to any person not being a native of this kingdom of England, this nation be not obliged to engage in any War, for the defence of any dominion, or territories not belonging to the crown of England, without the consent of parliament. 4. That whosoever shall hereafter come to the possession of this crown, shall join in communion with the Church of England as by the law establ shed. 5. That no Pardon be pleadable to any Impeachment in Parliament. 6. That no person who shall hereafter come to the possession of this crown, shall go out of the dominions of England, Scotland, or Ireland, without consent of parliament. 7. That no person who has any Office under the king, or receives a Pension from the crown, shall be capable of serving as a member of the house of commons. 8. That further provision be made, for the confirming of all Laws and Statutes for the securing our Religion, and the Rights and Liberties of the people. 9. That Judges commissions be made *quam diu se bene gesserint*, and their salaries ascertained and established: but upon the Address of either house of parliament, it may be lawful to remove them. 10. That the princess Sophia, dutchess dowager of Hanover, be declared the next in Succession to the crown of England in the Protestant Line, after his majesty and the princess, and the heirs of their bodies respectively; and that the further limitation of the crown be to the said princess Sophia and the heirs of her body, being Protestants. 11. That a Bill be brought in upon the said Resolutions."

The King's Message relative to the Partition Treaty.] March 18. The following Message was delivered to the house of commons by Mr. Secretary Hedges:

"W. R. His majesty having directed Mr. Stanhope, his envoy extraordinary and plenipotentiary at the Hague, to enter into Negotiations in concert with the States-General of the United Provinces, and other potentates, for the mutual security of England and Holland, and the preservation of the Peace of Europe, according to an Address of this house to that effect: and the said Mr. Stanhope having transmitted to his majesty, Copies of the Demands made by himself and the Deputies of the States upon that subject, to the French Ambassador there; his majesty hath thought fit to communicate the same to you, it being his majesty's gracious intention, and to acquaint you from time to time with the State and Progress of those Negotiations, into which he has entered pursuant to your Address above-mentioned. Kensington 17th March, 1700."

Address of the Commons on the Partition-Treaty.] When this Message was taken into the consideration of the commons on the 21st of March, they began with the great obstruction to it, the Treaty of Partition: and after reading the said Message, the Proposals made to the French ambassador by Mr. Stanhope, and the Resolution of the States-General for treating with M. d'Avaux, they resolved, That the Treaty of Partition be read; and after reading of it, they proceeded to this Resolution, "That an humble Address be presented to his majesty; to return the Thanks of this house for his gracious Message, wherein he is pleased to communicate his royal intentions, to acquaint this house from time to time with the state and progress of those Negotiations, into which his majesty had entered pursuant to the address of this house. And also to lay before his majesty the ill consequences of the Treaty of Partition (passed under the great seal of England, during the sitting of parliament, and without the Advice of the same) to the peace of Europe, whereby such large territories of the king of Spain's Dominions were to be delivered up to the French king."

The King's Answer.] When this Address was presented to the king, he did somewhat resent the unkindness of it; and thought there was much more reason to complain of the perfidious breach of the Treaty, than of the making of it. However, to decline the entering into any defence of it, he gave this Answer:

"Gentlemen; I am glad you are pleased with my communicating to you the State of the Negotiations I have entered into, pursuant to your Address; I shall continue to inform you of the Progress that shall be made in them; and be always willing to receive your Advice thereupon; being fully persuaded, that nothing can contribute more effectually to the happiness of this kingdom, and the Peace of Europe, than the concurrence of the parliament in all my Negotiations, and a good understanding between me and my people."

The Partition Treaty debated in the House of Lords.] March 14. The Lords taking the Partition-Treaty into consideration, some days after, they loudly expressed their disapprobation thereon, which they wholly laid at the earl of Portland's door. His lordship however excused

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himself by saying, That the duke of Leeds, the earls of Pembroke, Jersey and Marlborough, the lords Sommers and Hallifax, and Mr. Vernon, had their share in that Negotiation as well as himself; whereupon the peers his lordship had named did readily acknowledge, that they had, indeed, seen the rough draught of the Treaty, but that the earl of Portland had drawn it up by himself in French; and as for themselves, that they had neither given, nor refused their consent to it; because the Treaty was never communicated to the privy-council. Upon this occasion the marquis of Normanby made an eloquent speech, which was generally applauded; and because some peers had spoke very reflectingly of the king of France, the earl of Rochester took them up, and said, That all men ought to speak respectfully of crowned-heads, and that this duty is more particularly incumbent on the peers of a kingdom, who derive all their honour and lustre from the crown. This was backed by another earl, who said, That the king of France was not only to be respected, but likewise to be feared: To whom another member replied, That he hoped, no man in England needed be afraid of the French king; much less the peer who spoke last, who was too much a friend to that monarch to fear any thing from him.

Message to the Commons relative to the said Treaty.] After a long and warm debate, the lords sent a Message to the commons, to acquaint them, "That there having been lately a Treaty made with France, extremely dangerous in itself, and transacted also in a most irregular manner, the lords had thought fit to communicate it to the commons, and to desire them to appoint a Committee for meeting a committee of the lords, in order to their joint consideration of some method to be used in making such an application to his majesty about this matter, as might for the future prevent any proceedings of this kind." At the same time, the lords desired the commons, that Mr. Vernon, one of their members, might come to a Committee of the upper house, to give an Account of some matters relating to the Treaty of Partition, which the commons readily granted.

Facts respecting the Treaty of Partition stated.] March 15. The earl of Nottingham reported from the Committee appointed to draw up and state the Facts, as to the Treaty of Partition, that they had thought proper to set down such Facts as appeared to them. And the second Head being read, viz. 'That the 'emperor was not a Party to this Treaty, 'though principally concerned,' The question was put, Whether this paragraph shall stand? It was resolved in the negative. Contents 21; Not contents 40.

Protests thereon.] "Dissentient' 1. Because it is manifest by the treaty itself, that the matter of fact is true. 2. Because the emperor, as we conceive, had been the most proper to have treated with on this occasion, for it was more prudent and safe to have treated with the emperor to have restrained the pretensions of France, than with France to lessen the dominion of the house of Austria, which, in its full strength, and in conjunction with the most considerable powers in Europe, and with the expence of more than sixty millions sterling to our share, was scarce able to withstand the arms of France. 3. But, admitting that the emperor was not the most proper to be treated with, yet, to prevent the umbrage that might be taken by uniting too many dominions under one prince, especially such a prince as, without any additions, was formidable to all Europe, of all others the emperor was the most improper to be left out of such a treaty, for he was most concerned in it; and our ministers could not, or at least did not, sufficiently support his interest, or the just balance of Europe; but, on the contrary, as we are informed, by one lord who signed the Treaty, it was concluded against the express desire of the emperor. (Signed) De Longueville, Howard, Thanet, Craven, Hereford, Tho. Roffen', Granville, Scarsdale, Jeffreys, Leeds, Weymouth, Abingdon, Normanby, Guilford, Nottingham, Poulett."

Then the third Head was read, viz. 'That 'no minister of the States-General met with 'the Plenipotentiaries of England and France, 'as were required by the powers at the mak-'ing the treaty in London.' The question was put; Whether this paragraph shall stand? It was resolved in the Negative.

"Dissentient' 1. Because the truth of this proposition is reason enough for asserting it, and it must certainly be of fatal consequence, if ministers without any directions by instructions in writing, shall presume to act contrary to the very commission that empowers them; and, in this case, the assistance of the Dutch ministers was the more necessary, because the emperor was no party to this treaty, and the States-General are more immediately concerned, than we are, to promote his interests. 2. But if this treaty was concerted with the Dutch ministers in 1699, before his majesty's return into England, as was asserted by one of the lords who signed it afterwards in London, then, 1st, This treaty was made by those who had no authority to transact it, for the power was not granted by his majesty till the 2d of January following. 2dly. As they acted without power, so without instructions too in writing, which never was practised in any former transactions abroad. Lastly, We conceive, that neither of the foregoing facts ought, in reason, or according to the method of parliament, to be ordered to be omitted, because, till the committee had formed the address, pursuant to the order, it was impossible to know what use would be made of those facts; for as they might have been improperly applied, and then would have been justly rejected, so there might have been so great use made of them, and so opposite to the design of the house, in the intended address, that it will be improper to omit them. (Signed) Thanet, Leeds, Tho. Roffen', Hereford, De Longueville, Granville, Craven,

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Weymouth, Normanby, Howard, Jeffreys, Abingdon, Nottingham."

March 18. After debate concerning the Treaty of Partition, it was proposed, "That it appears, that the French king's acceptance of the Will of the king of Spain is a manifest violation of the Treaty, and humbly to advise the king, that, in all future Treaties with the French king, his majesty do proceed with such caution as may carry along with it a real security." After debate thereupon, the question was put, Whether the said Proposal shall go to the Committee to be one of the Heads for the Address? It was resolved in the affirmative.

"Dissentient' 1. Because it must be construed to be an approbation of the Treaty, which (as we conceive) was not intended by the house. 2. Because it is impossible to know the full meaning and extent of 'real security.' (Signed) Nottingham, Granville, Normanby, Rochester, Weymouth, Abingdon, Guildford, Godolphin."

The Lords' Address respecting it.] In conclusion, after three days debate, the house of lords resolved to set out this whole matter in an Address to the king, complaining both of the Partition Treaty, and of the method, in which it had been carried on. The lord Wharton moved an addition to the Address, 'That, whereas the French king had broke that Treaty, they should advise his majesty to treat no more with him, or rely on his word, without a real security.' This was much opposed by all those, who were against engaging in a new war: they said, all motions of that kind ought to come from the house of commons, who only could support such an advice, which did in effect engage us in a new war; nor would they lay the blame on the breaking of a treaty, which they were resolved to condemn. They also excepted to the words 'real security' as ambiguous; but the majority of the house agreed to it, for there was such treachery in the French negotiations, that they could not be relied on without a good guarantee, and the pledge of some strong places. It now plainly appeared, that the design was to set on the house of commons to impeach some lords, who had been concerned in the Partition Treaty; for it was moved to send the Address to the commons for their concurrence, but that was not carried. The Address was to this effect:

"That their lordships, having considered the Treaty of the 21st of Feb. or the 15th of March 1700, made with the French king, together with the separate and secret articles, which his majesty had been pleased to communicate to them, did most humbly represent to him, that, to their great sorrow, they found the matters thereof to have been of very ill consequence to the peace and safety of Europe; for that, besides the occasion it might have given to the late king of Spain, to have made his will in favour of the duke of Anjou, if that treaty had taken effect; the prejudice to his majesty and his subjects, and indeed to all Europe, by the addition of Sicily, Naples, several ports of the Mediterranean, the province of Guipuscoa, and the duchy of Lorrain, had been not only very great, but contrary to the pretence of the treaty itself, which was to prevent any umbrage, that might have been taken, by uniting so many states and dominions under one head. That, by all the informations they had had of that fatal treaty, they could not find, that the verbal orders and instructions (if any were given to his majesty's plenipotentiaries) were ever considered in any of his majesty's councils; or that the draught of that treaty had ever been laid before his majesty, at any meeting of his council, much less that it was advised or approved of by any council or committee of council. Wherefore they thought themselves bound in duty to his majesty, and justice to their country, most humbly to beseech him, that, for the future, he would be pleased to require and admit, in all matters of importance, the advice of his natural born subjects, whose known probity and fortunes might give him and his people a just assurance of their fidelity to his service; and that, in order thereunto, he would be pleased to constitute a council of such persons, to whom his majesty might be pleased to impart all affairs both at home and abroad, which might any way concern him and his dominions. For as interest and natural affection to their country would incline them, to wish the welfare and prosperity of it much more than others, who had no such ties upon them; and as their experience and knowledge of their country would also render them more capable than strangers of advising his majesty in the true interests of it; so they were confident, that, after such large and repeated demonstrations of his subjects duty and affection, his majesty could not doubt of their zeal in his service, nor want the knowledge of persons fit to be employed in all his most secret and arduous affairs. And that, since it appeared, the French king's accepting of the king of Spain's will was a manifest violation of that treaty, they humbly advised his majesty, in future treaties with that prince, to proceed with such caution, as might carry a real security."

This Address being carried by the Lord Keeper alone to Kensington, who there found two or three of the lords in waiting, to make a shew of a house, it was presented, on the 14th of March, to his majesty, who answered, "That it contained matter of very great moment; and that he would always take care, that all treaties he made, should be for the honour and safety of England."

The King's Message concerning the French King's Answer.] March 31. Upon the French Ambassador's declining to give a satisfactory Answer to the Memorials presented by Mr. Stanhope and the Dutch, his majesty sent this Message to the house of commons:

"W. R. His majesty having received an Account from Mr. Stanhope, his envoy extraordinary at the Hague, that the French ambassador there had declared to the Pensionary, that the king his master had no other Answer to return to the Demands made by the States Gene-

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ral of the United Provinces, than that he is ready to renew and confirm the Treaty of Ryswick, it being all the security the States are to expect; and that he has no orders to give any Answer to his majesty's said envoy; but if his majesty has any thing to demand, it may be done by his ambassador at Paris, or to the French minister at London; and that he has no commission to treat with any but the States. And his majesty having also received two Resolutions of the States, and a Memorial from their envoy here, relating to the Ships they are sending to join his majesty's Fleet, and the succours they desired may be hastened to them, by virtue of the Treaty made the 3rd of March, 1677: His majesty has thought fit to communicate the whole to this house, that they may be particularly informed of the present State of Affairs abroad, where the Negotiations seem to be at an end, by the positive Answer the French ambassador has given to the States. Which his majesty recommends to the serious consideration of this house, as a matter of the greatest weight and consequence; and desires that they will give his majesty such Advice thereupon, as may be for our own security, and that of the States General, and the peace of Europe. Kensington, 31st March 1701."

The humble Advice of the Commons thereon.] April 2. When this Message was taken into the consideration of the house, they resolved, nem. con. "That the humble Advice of this house be given to his majesty, to desire, that his majesty will be pleased to carry on the Negotiations in concert with the States General, and take such measures therein as may most conduce to their security; and that his majesty will pursue the Treaty made with the States General the 3rd of March, 1677, and to assure his majesty, that this house will effectually enable him to support the said Treaty of 1677."

The King's Answer.] When this Resolution of Advice was presented to his majesty, Mr. Secretary Hedges reported his majesty's Answer to this effect:

"That according to the Advice of the house of commons, his majesty has given Orders to his envoy extraordinary at the Hague, to carry on the Negotiations in concert with the States General, and to take such measures therein, as may most conduce to their security. His majesty thanks you for the assurance you have given, that this house will effectually enable him to support the Treaty of 1677, and will pursue the same as you advise. He does not doubt, but the readiness you have shewn upon this occasion, will very much contribute to the obtaining such a security as is desired."

The Earl of Portland impeached.] April 1. The commons resolved, "That William earl of Portland, by negociating and concluding the Treaty of Partition, (which was destructive to the Trade of this kingdom, and dangerous to the peace of Europe) is guilty, and shall be impeached, of high Crimes and Misdemeanors." And they ordered sir John Levison Gower to go up to the lords, and at their bar to impeach the said earl, and to acquaint their lordships, that they will in due time exhibit particular Articles against him.

Paper delivered to the Lords at a Conference.] They then desired a Conference with the lords upon matters relating to the Treaty of Partition; at which Conference the commons delivered this Paper to the lords:

"It appearing by your lordships Journal, that your lordships have received Information of some transactions between the earl of Portland, and Mr. Secretary Vernon, relating to the Partition of the Spanish monarchy, the commons having the said matter under their consideration, desire your lordships will be pleased to communicate to the commons, what Informations your lordships have had, of any Transactions relating to any Negotiations or Treaties of Partition of the Spanish monarchy, by letters or otherwise. And the commons are fully assured, that your lordships will readily concur in assisting them in this enquiry, which they conceive absolutely necessary for the safety and honour of this Kingdom, and the preservation of the peace of Europe."

Upon this the lords ordered the two Latin Commissions of Powers granted to the earls of Portland and Jersey, for negotiating the said treaties, one dated the 1st of July, 1699, the other on the 2nd of January, 1700, as also a private Paper of the lord Portland's running thus:

"At the beginning of the Summer of 1699, when I was in Holland, at my country house, and when the king would have me concerned in the negotiation of this Treaty with the emperor, the French king, and the States; being very unwilling to meddle with business again, from which I was retired, before I would engage myself, I advised with my friends in Holland and writ into England to Mr. Secretary Vernon, as my particular friend, whether it was advisable for me to engage in any business again? To which Mr. Vernon answered in substance, That this would not engage me but for a little while: that I being upon the place, and generally acquainted with the Foreign ministers, it would be easier for the king, and more proper for me to be employed in it, than any body else, that must be otherwise sent for on purpose."

The Lord Sommers impeached.] The next person whom the commons intended to call upon, was John lord Sommers, late Lord Chancellor of England, on whose judgment and fidelity the king had very much relied: his lordship being sensible of the storm that was coming on, desired the earl of Portland, with leave of the house, to declare if he pleased, Whether the lord Sommers's name was mentioned in the Letter he received from Mr. Secretary Vernon? The earl of Portland stood up and declared, "That if he had remembered any such thing in the Letter, and had not inserted it in the Paper which he had delivered to the house, he should have thought he had deceived the house."

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April 14. The lord Sommers sent in an information to the house of commons, that having heard the house was upon a debate concerning him, he desired that he might be admitted in and heard: this was granted, and a chair was set by the Serjeant, a little within the bar on the left hand; then the serjeant had directions to acquaint the lord Sommers, that he might come in; and the door being opened, his lordship came in, and Mr. Speaker acquainted his lordship, that he might repose himself in the chair provided for him; and his lordship was heard what he had to offer to the house, which he did with great plainness and presence of mind. He told them, the king had writ to him, that the state of the king of Spain's health was desperate; and that he saw no way to prevent a new war, but to accept of the proposition, which the French made for a Partition. That the king sent him the scheme of this, and ordered him to communicate it to some others, and to give him both his own opinion and theirs concerning it, and to send him over powers for a treaty, but in the most secret manner possible. Yet his majesty added, That if he and his other ministers thought, that a treaty ought not to be made upon such a project, then the whole matter must be let fall, for he could not bring the French to better terms. Lord Sommers upon this said, that he thought it was the taking too much upon himself if he should have put a stop to a treaty of such consequence. If the king of Spain had died before it was finished, and the blame had been cast on him for not sending the necessary powers, because he was not ordered to do it by a warrant in full form, he could not have justified that, since the king's letter was really a warrant, and therefore he thought he was bound to send the powers, that were called for, which he had done. But at the same time he wrote his own opinion very fully to his majesty, objecting to many particulars, if there was room for it, and proposing several things, which, as he thought, were for the good and interest of England. That soon after the powers were sent over by him, the treaty was concluded, to which he put the Great Seal, as he thought he was bound to do; and that in this, as he was a Privy-Counsellor, he had offered the king his best advice, and, as he was a chancellor, he had executed his office according to his duty. That as for puting the Seal to the powers, he had done it upon the king's letter, which was a real warrant, though not a formal one; that he had indeed desired, that a warrant in due form might be sent for his own security; but he did not think it became him to endanger the public, only for want of a point of form, in so critical a time, wherein great dispatch was requisite. Having finished what he had to say, the Speaker asked him the question, which had been resolved before his admission, 'Who had informed him, that there was a debate in the house about him?' To which he answered, "That he was strangely surprised at a question, that he never knew was put to any man, that came to desire the favour of being heard; and that, if that question was asked to bring the least prejudice to any man in England, he would not only be content to lie under the censure of the house, but suffer the worst thing, that might befal him upon earth, rather than do such a dishonest thing." He then withdrew, but came back immediately, and desired to leave with the house the king's Letter to him, and the copy of his Answer; which, he acquainted the house, he had leave to lay before them. His defence of himself was so full and clear, that it was believed, if, upon his withdrawing, the question had been quickly put, the whole matter had been soon at an end, and the prosecution let fall. But his enemies drew out the debate to such a length, that the impression, which his speech had made, was much worn out; and the house sitting till it was past midnight, they at last carried this Resolution by a majority of 198 to 188. "That John lord Sommers, by advising his majesty, in the year 1698, to the Treaty for Partition of the Spanish monarchy, whereby large territories of the king of Spain's dominions were to be delivered up to France, is guilty of a High Crime and Misdemeanor." And the house ordered Mr. Simon Harcourt to go up to the lords, and impeach him.

The Earl of Orford and Lord Hallifax impeached.] The like question was afterwards put in relation to the earl of Orford and lord Hallifax; and was carried on two several divisions in the affirmative; to wit: against lord Orford, by 193 against 148: and against lord Hallifax, by 186 against 163.

The King's Letter to Lord Sommers] The lord Sommers had delivered to the house of commons a copy of the Letter which he had sent to his majesty, in Answer to one from his majesty, upon occasion of that Treaty: both which are here inserted.

"At Loo, 15-25 of August, 1698.—I imparted to you before I left England, that in France there was expressed to my lord Portland some inclination to come to an Agreement with us, concerning the Succession of the king of Spain; since which, count Tallard has mentioned it to me, and has made Propositions, the particulars of which my lord Portland will write to Vernon, to whom I have given orders not to communicate them to any other besides yourself, and to leave all to your judgment, and to whom else you would think proper to impart them; to the end that I might know your opinion upon so important an affair, and which requires the greatest secrecy. If it be fit this Negotiation should be carried on, there is no time to be lost, and you will send me the full powers under the great seal, with the names in blank, to treat with count Tallard. I believe that this may be done secretly, that none but you and Vernon, and those to whom you shall communicate it, may have knowledge of it; so that the clerks who are to write the Warrant and the Full Powers, may not know what it is. According to all intelligence, the king of Spain cannot out-live the month of Oc-

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tober, and the least accident may carry him off every day. I received yesterday your letter of the 9th. Since my lord Wharton cannot at this time leave England, I must think of some other to send ambassador into Spain; if you can think of any one proper, let me know it, and be always assured of my friendship.

WILLIAM *Rex.*"

The Lord Sommers's Answer.

"Tunbridge Wells, 28th August, 1698. O. S. Sir; Having your majesty's permission to try if the waters would contribute to the re-establishment of my health, I was just got to this place, when I had the honour of your commands; I thought the best way of executing them would be to communicate to my lord Orford, Mr. Montagu, and the duke of Shrewsbury (who, before I left London, had agreed upon a meeting about that time) the subject of my lord Portland's Letter; at the same time letting them know, how strictly your majesty required that it should remain an absolute secret.—Since that time, Mr. Montagu, and Mr., Secretary are come down hither; and upon the whole discourse, three things have principally occurred, to be humbly suggested to your majesty. 1. That the entertaining a Proposal of this nature, seems to be attended with very many ill consequences, if the French did not act a sincere part; but we were soon at ease, as to any apprehension of this sort, being fully assured your majesty would not act but with the utmost nicety, in an affair wherein the glory and safety of Europe were so highly concerned.—The second thing considered, was the very ill prospect of what was like to happen upon the death of the king of Spain, in case nothing was done previously towards the providing against that accident which seemed probably to be very near: the king of France having so great a force in such a readiness, that he was in a condition to take possession of Spain, before any other prince could be able to make a stand. Your majesty is the best judge whether this be the case, who are so perfectly informed of the circumstances of parts abroad. —But so far as relates to England, it would be want of duty not to give your majesty this clear Account, That there is a deadness and want of spirit in the nation universally, so as not at all to be disposed to the thought of entering into a new War; and that they seem to be tired out with Taxes to a degree beyond what was discerned, till it appeared upon the occasion of the late elections. This is the truth of the fact, upon which your majesty will determine what resolutions are proper to be taken.—That which remained, was the consideration what would be the condition of Europe, if the Proposal took place: of this we thought ourselves little capable of judging; but it seemed that if Sicily was in the French hands, they will be entirely masters of the Levant-Trade; that if they were possessed of Final, and those other sea-ports on that side, whereby Milan would be entirely shut out from relief by sea, or any other commerce, that Duchy would be of little signification in the hands of any prince; and that if the king of France had possession of that part of Guipuscoa, which is mentioned in the Proposal, besides the ports he would have in the Ocean, it does seem he would have as easy a way of invading Spain on that side, as he now has on the side of Catalonia.—But it is not to be hoped that France will quit its pretences, to so great a Succession, without considerable advantages; and we are all assured, your majesty will reduce the terms as low as can be done, and make them, as far as is possible in the present circumstances of things, such as may be some foundation for the future quiet of Christendom; which all your subjects cannot but be convinced is your true aim. If it could be brought to pass that England might be some way a gainer by this transaction, whether it was by the elector of Bavaria (who is the gainer by your majesty's interposition in this Treaty) his coming to an agreement to let us into some Trade to the Spanish Plantations, or in any other manner, it would wonderfully endear your majesty to your English subjects.—It does not appear, in case this Negotiation should proceed, what is to be done on your part in order to make it take place, whether any more be required than the English and Dutch should sit still, and France itself to see it executed. If that be so, what security ought to be expected, that if, by our being neuters, the French be successful, they will confine themselves to the terms of the Treaty, and not attempt to make further advantages of their success?—I humbly beg your majesty's pardon that these thoughts are so ill put together: these waters are known to discompose and disturb the head, so as almost totally to disable one from writing: I should be extremely troubled if my absence from London has delayed the dispatch of the Commission one day. You will be pleased to observe that two persons (as the Commission is drawn) must be named in it, but the powers may be executed by either of them. I suppose your majesty will not think it proper to name Commissioners that are not English, or naturalized, in an affair of this nature.—I pray God give your majesty honour and success in all your undertakings. I am with the utmost duty and respect, sir, &c."

"P. S. The Commission is wrote by Mr. Secretary, and I have had it sealed in such a manner, that no creature has the least knowledge of the thing, besides the persons named."

The Commons' Address to remove the impeached Lords from the King's Presence for ever.] April 25. The commons in pursuance of Resolutions taken the 15th of April, did this day present the following Address to the king:

"Most gracious Sovereign; We your majesty's most dutiful and loyal subjects, the Commons in parliament assembled, do humbly crave leave to represent to your majesty, the great satisfaction we have from our late Enquiry

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concerning the Treaty of Partition, made in the year 1698, (on which the Treaty of 1699 was founded) to see your majesty's great care of your people and this nation, in not entering into that Negotiation without the Advice of your English counsellors; and finding that John lord Sommers, on whose judgment your majesty did chiefly rely in that so important affair, did, in concert with Edward earl of Orford, and Charles lord Hallifax, advise your majesty to enter into that Treaty of so dangerous consequence to the Trade and Welfare of this nation; and who, to avoid the censure which might justly be apprehended to fall on those who advised the same, endeavoured to insinuate, that your majesty, without the advice of your council, entered into that Treaty, and under your sacred name to seek protection for what themselves had so advised: of which treatment of your majesty we cannot but have a just resentment: and that they may be no longer able to deceive your majesty and abuse your people, we do humbly beseech your majesty, that you will be pleased to remove John lord Sommers, Edward earl of Orford, and Charles lord Hallifax, from your council and presence for ever; as also William earl of Portland, who transacted these Treaties, so unjust in their own nature, and so fatal in their consequences to this nation, and the peace of Europe. And we humbly crave leave upon this occasion to repeat our assurances to your majesty, that we will always stand by and support your maj. to the utmost of our power, against all your enemies both at home and abroad."

The King's Answer.] His majesty returned this Answer:

"I am willing to take all occasions of thanking you very heartily, for the assurances you have frequently given me, and now repeat, of standing by and supporting me against all our enemies both at home and abroad: towards which, nothing, in my opinion, can contribute so much as a good correspondence between me and my people. And therefore you may depend upon it, that I will employ none in my service, but such as shall be thought most likely to improve that mutual trust and confidence between us, which is so necessary in this conjuncture, both for our own security, and the defence and preservation of our Allies."

Counter-Address of the House of Lords.] The house of lords was alarmed at the Address of the commons, and apprehended it to be an ill precedent for persons to be censured, before they were tried. And therefore they interposed with this Counter Address to his majesty:

"We your majesty's most loyal and dutiful subjects, the Lords Spiritual and Temporal, in parliament assembled, beg leave to represent to your majesty, that the house of commons have severally impeached at the bar of our house, William earl of Portland, John lord Sommers, Edward earl of Orford, and Charles lord Hallifax, of high crimes and misdemeanors, and they having acquainted us, that they will in due time exhibit particular Articles against the said lords, and make good the same; we do most humbly beseech your majesty, that your majesty will be pleased not to pass any censure upon them, until they are tried upon the said Impeachments, and judgment be given according to the usage of parliament, and the laws of the land."

A Message from the King concerning the Negotiations at the Hague.] May 3. His majesty sent this Message to the house of commons by Mr. Secretary Hedges:

"W. R.—His majesty having lately received an Account from Mr. Stanhope, of the present posture of affairs in Holland, and likewise a Letter from the States-General, which is of the greatest importance; And his majesty, who has so perfect a knowledge of their country, being entirely convinced of the hardships of their present condition, and the great pressures they now lie under, which are particularly expressed in the above-mentioned Letter, has thought it absolutely necessary to communicate the same to this house; that the expectations the States have of present assistance from his majesty, may more fully appear. And his majesty does not doubt, but this house will be so justly sensible of those immediate dangers to which they stand exposed, as to take the same into their most serious and effectual consideration; it being most evident, that the safety of England, as well as the very being of Holland, does very much depend upon your Resolutions in this matter."

Vote thereon.] This Message was the next day taken into the consideration of the commons; and they unanimously Resolved, "That this house will effectually assist his majesty to support his Allies, in maintaining the Liberty of Europe; and will immediately provide Succours for the States-General, according to the Treaty of the 3d of March, 1677."

THE KENTISH PETITION.] May 8. The violent proceedings of the commons, and their slowness with relation to foreign affairs, had not only displeased the king, but given a general disgust to the nation, and particularly to the city of London, where foreign affairs, and the interest of trade were generally better understood; the old East-India Company, though they hated the ministry that set up the new, and studied to support this house of commons, from whom they expected much favour; yet they, as well as the rest of the city, saw visibly, that first the ruin of trade, and consequently the ruin of the nation, must certainly ensue, if France and Spain were once firmly united. So they began openly to condemn the proceedings of the commons, and to own a jealousy, that the Louis d'ors, sent hither of late, had not come over to England for nothing. This disposition, to blame the slowness in which the commons proceeded with respect to affairs abroad, spread itself through all England, and more especially in Kent. Those of that county, in a dislike of the conduct of the Commons, sent up the following Petition to that house:

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"The humble PETITION of the Gentlemen, Justices of the Peace, Grand-Jury, and other Freeholders at the General Quarter-Sessions of the Peace holden at Maidstone, the 29th of April, in the thirteenth year of the reign of our sovereign lord William III. over England, &c.

"WE the Gentlemen, Justices of the Peace, Grand-Jury, and other Freeholders, at the General Quarter-Sessions at Maidstone, in Kent, deeply concerned at the dangerous estate of this kingdom, and of all Europe; and considering that the fate of us and our posterity depends upon the wisdom of our representatives in parliament, think ourselves bound in duty, humbly to lay before this honourable house the consequence, in this conjuncture, of your speedy resolution, and most sincere endeavour to answer the great trust reposed in you by your country. And in regard, that from the experience of all ages it is manifest, no nation can be great or happy without union, we hope, that no pretence whatsoever shall be able to create a misunderstanding among ourselves, or the least distrust of his most sacred majesty; whose great actions for this nation are writ in the hearts of his subjects, and can never, without the blackest ingratitude, be forgot. We most humbly implore this honourable house to have regard to the voice of the people, that our Religion and Safety may be effectually provided for, that your loyal Addresses may be turned into Bills of Supply, and that his most sacred majesty (whose propitious and unblemished reign over us we pray God long to continue) may be enabled powerfully to assist his Allies before it is too late. And your Petitioners shall ever pray, &c."

Signed by the Deputy-Lieutenants there present, above 20 Justices of the Peace, all the Grand-Jury, and other Freeholders then there.

The Gentlemen who delivered it, are committed.] This Petition was boldly delivered to the house on the 8th of May, and Mr. William Colepepper, Mr. Tho. Colepepper, Mr. David Polhill, Mr. Justinian Champney, and Mr. Wm. Hamilton, being called in, owned the Petition at the bar, and their hands to the same: Then they withdrew, and the Petition being read, the house Resolved, "That the said Petition was scandalous, insolent, and seditious, tending to destroy the constitution of parliaments, and to subvert the established government of these realms." And then Ordered, "That all those gentlemen should be taken into custody, as guilty of promoting the said Petition." And on the 11th of May, the house being informed, that Mr. Thomas Colepepper had made his escape, and that the rest of the persons committed, did behave themselves disorderly; the Serjeant was called in, who acquainted the house, that the said Mr. Colepepper had on Saturday last made his escape, and that some of the others had threatened, and he was apprehensive of force to rescue them; and prayed the direction of the house concerning them: Whereupon, the house ordered them to be delivered prisoners to the Gate-house; and agreed to Address his majesty, to issue his Proclamation for apprehending Mr. Colepepper, and for putting out of the commissions of the peace and lieutenancy, such of the others as were in any of the said commissions. But Mr. Colepepper made a voluntary surrender of himself, and was confined with his neighbours *.

THE LEGION LETTER.] This imprisonment of the Kentish Petitioners did but inflame those people, who were before displeased with the proceedings of the commons, and gave occasion to a Letter, supposed to be drawn by Daniel de Foe, intitled, 'A Memorial from the Gentlemen, Freeholders, and Inhabitants of the Counties of ——, in behalf of themselves and many thousands of the good people of England, and signed Legion.' This was sent to the Speaker with the following Letter:

"Mr. Speaker; The enclosed Memorial you are charged with in the behalf of many thousands of the good people of England. There is neither Popish, Jacobite, Seditious, Court or Party-Interest concerned in it: but Honesty and Truth. You are commanded by two hundred thousand Englishmen, to deliver it to the house of commons, and to inform them that it is no banter, but serious truth; and a serious regard to it is expected; nothing but Justice and their Duty is required; and it is required by them, who have both a right to require, and power to compel, viz. the People of England. We could have come to the house strong enough to oblige them to hear us, but we have avoided any tumults, not desiring to embroil, but to save our native country. If you refuse to communicate it to them, you will find cause in a short time to repent it.

'To Robert Harley, esq.
'Speaker to the House of Commons.
'These."

The MEMORIAL.

"To the Knights, Citizens, and Burgesses in Parliament assembled.

"A MEMORIAL, from the Gentlemen, Freeholders, and Inhabitants of the Counties of ——, in behalf of themselves, and many thousands of the good People of England.

'Gentlemen; It were to be wished you were men of that temper, and possessed of so much,

* The Kentish gentlemen were ably vindicated in a piece, printed in 1701, and reprinted in the third volume of the State Tracts during the reign of king William, and intitled, 'Jura Populi Anglicani: Or, the Subjects Right of Petitioning set forth; occasioned by the Case of the Kentish Petitioners. With some thoughts on the Reasons, which induced those gentlemen to petition; and of the Commons right of imprisoning.' For a copy of this curious Tract, see Appendix No. XVII.

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'honour, as to bear with the Truth, though it 'be against you; especially from us, who have 'so much right to tell it you: but since, even 'Petitions to you from your Masters, (for such 'are the People who chose you) are so haugh- 'tily received, as with the committing the Au- 'thors to illegal custody, you must give us 'leave, to give you this fair notice of your Mis- 'behaviour.

'If you think fit to rectify your errors, you 'will do well, and possibly may hear no more 'of us; but if not, assure yourselves, the na- 'tion will not long hide their resentments. And 'though there are no stated proceedings to 'bring you to your duty, yet the great Law of 'Reason says, and all nations allow, That 'whatever power is above law, is burdensome 'and tyrannical, and may be reduced by ex- 'trajudicial methods. You are not above the 'People's Resentments, they that made you 'members, may reduce you to the same rank 'from whence they chose you; and may give 'you a taste of their abused kindness, in terms 'you may not be pleased with. When the 'People of England, assembled in Convention, 'presented the crown to his present majesty, 'they annexed a Declaration of the Rights of 'the People, in which was expressed what was 'illegal and arbitrary in the former reign, and 'what was claimed as of Right to be done by 'succeeding kings of England.

'In like manner, here follows, Gentlemen, 'a short Abridgment of the Nation's Griev- 'ances, and of your illegal and unwarrantable 'practices; and a *Claim of Right*, which we 'make in the name of ourselves, and such of 'the good People of England, as are justly 'alarmed at your proceedings.

'1. To raise Funds for Money, and declare, 'by borrowing Clauses, that whosoever ad- 'vances Money on those Funds, shall be reim- 'bursed out of the next Aids, if the Funds fall 'short; and then give subsequent Funds, with- 'out transferring the Deficiency of the former, 'is a horrible Cheat on the subject who lent 'the Money, a Breach of public faith, and de- 'structive to the honour and credit of Parlia- 'ments.

'2. To imprison men who are not your own 'members, by no proceeding, but a Vote of 'your house, and to continue them in custody, '*sine die*, is illegal, a notorious Breach of the 'liberty of the People, setting up a dispensing 'Power in the house of commons, which your 'fathers never pretended to; bidding defiance 'to the Habeas Corpus Act, which is the bul- 'wark of Personal Liberty; destructive of the 'laws, and betraying the trust reposed in you. 'The king, at the same time, being obliged to 'ask you leave, to continue in custody the 'horrid Assassinators of his Person.

'3. Committing to custody those Gentlemen, 'who, at the command of the people, (whose 'servants you are) came in a peaceable way to 'put you in mind of your duty, is illegal and 'injurious; destructive of the Subjects liberty 'of petitioning for Redress of Grievances, which 'has, by all parliaments before you, been ac- 'knowledged to be their undoubted right.

'4. Voting a Petition from the Gentlemen of 'Kent insolent, is ridiculous, and impertinent; 'because the Freeholders of England are your 'superiors; and is a contradiction in itself, and 'a contempt of the English Freedom, and con- 'trary to the nature of Parliamentary Power.

'5. Voting people guilty of Bribery and ill 'Practices, and committing them as aforesaid, 'without bail, and then, upon submission and 'kneeling to your house, discharging them, after 'exacting exorbitant Fees by your officers, is 'illegal, betraying the Justice of the nation, 'selling the Liberty of the Subjects, encourag- 'ing the Extortion and Villainy of Gaolers and 'Officers, and discountenancing the legal Pro- 'secution of Offenders in the ordinary course 'of law.

'6. Prosecuting the crime of Bribery in 'some, to serve a Party, and then proceeding 'no further, though Proof lay before you, is 'partial, and unjust, and a Scandal upon the 'honour of Parliaments.

'7. Voting the Treaty of Partition fatal to 'Europe, because it gave so much of the 'Spanish dominions to the French, and not con- 'cerning yourselves to prevent their taking 'possession of it all: deserting the Dutch, 'when the French are at their doors, till it be 'almost too late to help them; is unjust to our 'Treaties, and unkind to our Confederates, 'dishonourable to the English nation, and shews 'you very negligent of the safety of England, 'and of our Protestant neighbours.

'8. Ordering immediate hearings to trifling 'Petitions, to please Parties in elections; and 'postponing the Petition of a Widow, for the 'blood of her murdered daughter, without giv- 'ing it a reading, is an illegal delay of Justice, 'dishonourable to the public Justice of the 'nation.

'9. Addressing the king to displace his 'friends, upon bare surmises, before the legal 'Trial, or any Article proved, is illegal, and in- 'verting the law, and making execution go be- 'fore judgment; contrary to the true sense of 'the law, which esteems every man a good 'man, till something appears to the contrary.

'10. Delaying proceedings upon capital im- 'peachments, to blast the reputation of the 'persons, without proving the fact, is illegal 'and oppressive, destructive to the Liberty of 'Englishmen, a delay of Justice, and a reproach 'of Parliaments.

'11. Suffering saucy, indecent Reproaches 'upon his majesty's person, to be publicly made 'in your house, particularly that impudent 'Scandal of Parliaments John How, without 'shewing such resentments as you ought to do; 'the said John How saying openly, That his 'majesty had made a felonious Treaty to rob 'his neighbours; insinuating that the Partition 'Treaty (which was every way as just as blow- 'ing up one man's house to save another's) was 'a combination of the king to rob the crown of 'Spain of its due: This is making a Billingsgate

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'of the house, and setting up to bully your 'sovereign, contrary to the intent and meaning 'of the Freedom of Speech, which you claim 'as a Right: is scandalous to Parliaments, 'undutiful and unmannerly, and a reproach to 'the whole nation.

'12. Your Speaker exacting the exorbitant 'rate of 10*l.* per diem for the Votes, and giving 'the Printer encouragement to raise it on the 'people, by selling them at 4*d.* per sheet, is an 'illegal and arbitrary Exaction, dishonourable 'to the house, and burdensome to the people.

'13. Neglecting to pay the nation's Debts, 'compounding for Interest, and postponing 'Petitions, is illegal, dishonourable, and de-'structive of the public faith.

'14. Publicly neglecting the great work of 'Reformation of manners, though often pressed 'to it by the king, to the great dishonour of 'God and encouragement of Vice, is a neglect 'of your duty, and an abuse of the trust repos-'ed in you by God, his majesty, and the people.

'15. Being scandalously vicious yourselves, 'both in your Minds and Religion, lewd in life, 'and erroneous in Doctrine, having public 'Blasphemers, and impudent Deniers of our 'Saviour's Divinity among you, and suffering 'them unreproved and unpunished, to the in-'finite regret of all good Christians, and the 'just abhorrence of the whole nation.

'Wherefore, in a sad prospect of the im-'pending ruin of our native country, while 'Parliaments (which ought to be the Security 'and Defence of our Laws and Constitution) 'betray their trust, and abuse the people whom 'they should protect: And no other way being 'left us, but the Force which we are very loth 'to make use of, that posterity may know we 'did not insensibly fall under the Tyranny of a 'prevailing Party, we do hereby claim and 'declare:

'1. That it is the undoubted Right of the 'People of England, in case their Representa-'tives in parliament do not proceed according 'to their duty, and the people's interest, to in-'form them of their dislike, disown their ac-'tions, and to direct them to such things as 'they think fit, either by Petition, Address, 'Proposal, Memorial, or any other peaceable 'way.

'2. That the house of commons, separately, 'and otherwise than by Bill legally passed into 'an Act, have no legal power to suspend, or 'dispense with, the laws of the land, any more 'than the king has by his prerogative.

'3. That the house of commons have no 'legal power to imprison any person, or commit 'them to the custody of Serjeants, or otherwise, '(their own members excepted) but ought to 'address the king to cause any person, on good 'grounds, to be apprehended; which person 'so apprehended ought to have the benefit of 'the Habeas Corpus Act, and be fairly brought 'to a Trial by due course of law.

'4. That, if the house of commons, in 'breach of the Laws and Liberties of the peo-'ple, do betray the trust reposed in them, and 'act negligently, arbitrarily and illegally; it is 'the undoubted Right of the People of England 'to call them to an account for the same; and 'by Convention, Assembly, or Force, may 'proceed against them as Traitors and Betray-'ers of their country.

'These things we think proper to declare, 'as the undoubted Right of the People of Eng-'land, whom you serve. And in pursuance of 'that Right, avoiding the ceremony of Peti-'tioning our inferiors, for such you are by your 'present circumstances, (as the person sent is 'less than the sender) we do publicly protest 'against all your aforesaid actions; and, in 'the name of ourselves, and all the good people 'of England, do require and demand:

'1. That all the public just Debts of the 'nation be forthwith paid and discharged.

'2. That all persons illegally imprisoned, 'as aforesaid, be either immediately discharged, 'or admitted to bail, as by law they ought to be; 'and the Liberty of the Subject recognized and 'restored.

'3. That John How aforesaid, be obliged 'to ask his majesty pardon for his vile reflec-'tions, or be immediately expelled the house.

'4. That the growing power of France be 'taken into consideration, the Succession of 'the emperor to the crown of Spain supported, 'and our Protestant neighbours protected as 'the true interest of England, and the Protes-'tant Religion requires.

'5. That the French king be obliged to quit 'Flanders, or that his majesty be addressed to 'declare War against him.

'6. That suitable Supplies be granted to 'his majesty, for the putting all those neces-'sary things in execution; and that care be 'taken, that such Taxes as are raised, be more 'equally assessed and collected, and scandalous 'Deficiencies prevented.

'7. That the Thanks of the house may be 'given to those Gentlemen, who so gallantly 'appeared in the behalf of their country with 'the Kentish Petition, and have been so scan-'dalously used for it.

'Thus, Gentlemen, you have your duty laid 'before you, which it is hoped you will think 'of: but if you continue to neglect it, you may 'expect to be treated according to the resent-'ments of an injured nation; for Englishmen 'are no more to be Slaves to Parliaments, than 'to Kings.

"Our Name is LEGION:

"And we are MANY.

'P. S. If you require to have this Memorial 'signed with our names, it shall be done on 'your first orders, and personally presented.'

Vote thereon.] The consequence of this was, that a Complaint was made to the house, of endeavours to raise Tumults and Seditions, in order to disturb the Public Affairs, and a Committee was appointed to draw up an Address to the king humbly to lay before him the Endeavours of several ill-disposed Persons to raise Tumults and Seditions in the kingdom, and

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humbly to beseech his majesty that he will provide for the public Peace and Safety.*

Difference between the two Houses upon the Matter of Impeachments.] May 5. To return to the unhappy Difference between the two houses, in the Case of the impeached Lords; the house of peers seemed to think, that their members had been impeached by the commons, without a serious intention to prosecute the Charges against them. And therefore this day their lordships sent this quickening Message to the commons;

"Mr. Speaker; The Lords have commanded us to acquaint this house, that they having on the 1st day of April last, sent up to their lordships an Impeachment against William earl of Portland, of High Crimes and Misdemeanors; and having also on the 15th of the same month, severally impeached John lord Sommers, Edward earl of Orford, and Charles lord Halifax, of High Crimes and Misdemeanors: their lordships think themselves obliged to put this house in mind, that as yet no particular Articles have been exhibited against the said lords; which, after Impeachment, have been so long depending, is due in justice to the persons concerned, and agreeable to the methods of a parliament in such cases."

The Commons sent for Answer, That Articles against the Lords impeached were preparing, and in a short time should be sent up to the house of lords.

Articles of Impeachment against the Earl of Orford.] May 9. The commons, by colonel Bierly, sent up the following Articles against Edward earl of Orford, in maintenance of their Impeachment:

"ARTICLES exhibited by the knights, citizens, and burgesses, in parliament assembled, in the name of themselves and of all the commons of England, against EDWARD Earl of ORFORD, in maintenance of their Impeachment against him for high Crimes and Misdemeanors.

I. "That whereas, for many years past, there hath been a long and expensive War, both by sea and land, carried on by his majesty and his Allies, against the French king, for the preserving the balance of Europe, and for preventing the growth of the immoderate power of the said French king; towards the prosecution of which War, great sums of money have been given and levied by authority of parliament, and many Debts have been contracted, which remain a very heavy burthen upon the people of England; the said Earl, being then of his majesty's most honourable privy council, but always preferring his private interest to the good of the public, and taking advantage of the ready access he had to his majesty's person, during the continuance of the said War, in violation of his duty and trust, hath procured from his majesty one or more Grant or Grants, of several manors, messuages, lands, tenements, and hereditaments, within the kingdoms of England or Ireland, or elsewhere within his majesty's dominions, of a great yearly value, and also of exorbitant sums of Money, to be made to him, or others in trust for him, but to his use, the profits whereof he now enjoys; whereby the standing Revenues of the crown of England, which ought to be applied to the service of the public, are greatly diminished, and the people of England thereby burthened with debts, and subjected to grievous taxes.

II. "That, in breach of the trust reposed in him, whilst he was Commander in Chief of the Navy Royal of England, in or near the Streights of Gibraltar, and within the time aforesaid, he the said Earl did receive great sums of the public money, issued out to him for the service of the Navy, which he hath converted to his own private use, and unlawfully and unjustly procured a privy seal or privy seals to discharge him from accompting to the public for the same; and also hath received other great sums of money from his majesty's Exchequer, as Paymaster or Receiver General of the Navy, without giving a due and legal Account thereof; whereby he hath occasioned great clamours and discontents among the Seamen and others belonging to his majesty's Navy, who are thereby reduced to great miseries and necessities, for want of their just dues, to the great discouragement and discredit of the public service.

III. "That he the said Earl, while he was in several ports belonging to the king of Spain's dominions, did receive, from the said king and

* "On the day before the Memorial was delivered, the house had addressed his majesty to put the several Presenters of the Kentish Petition out of the commission of the peace: and the day it was delivered, the younger Colepeper, who had made his escape from the serjeant, surrendered himself: whence a report prevailed, That he had brought this packet out of Kent; and that the whole country were at his heels to make it good; which proved to be report only.—Of this memorial, in what manner it was communicated to the house, or whether at all according to form, does not appear by the Journals: all that we find there is, That the serjeant having been ordered to go his rounds with the mace, to summon such members as he should find to attend the service of the house, a Complaint was made, of endeavours to raise Tumults and Sedition in order to disturb the public affairs; and it was ordered thereon, That a Committee be appointed, to draw up an Address, humbly to lay before his majesty, the endeavours of several ill-disposed persons to raise Tumults and Sedition in the kingdom; and humbly to beseech his majesty, That he will provide for the public peace and security. The committee so appointed, consisted of 53 persons: they were to meet the same day at five o'clock in the Speaker's Chamber: they were empowered to send for persons, papers and records; and were directed to sit *de die in diem*: but, having thought better of it, no Report was called for, and the whole affair was silently let fall." Ralph.

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others, considerable sums of money, and great quantities of wine, oil, and other provisions for the Fleet, to a very great value, for all which he ought to have accompted; but the said Earl did convert the same to his own use, and did either embezzle those Provisions, or reckoned them as bought with the money allowed for furnishing the Navy with fresh provisions; and that, for the advancing his own private interest, and securing himself from rendering any Accompt to the public, he the said Earl, during the said War, procured, enjoyed, and possessed, divers great offices, which were inconsistent, and in their nature improper to be executed by one and the same person, and which ought to be, and by the laws and usages of this realm were and are appointed and designed, as Checks one upon the other, in breach of the said laws, to the dishonour of his majesty, and prejudice of his people.

IV. "That he the said Earl, within the time aforesaid, hath clandestinely, contrary to the Law of Nations, sold and disposed of several Vessels, with their ladings and cargo, taken, under pretence of Prize, by his majesty's ships of war, without condemnation or judicial proceedings, and converted the money to his own use; well knowing, if they had been condemned, as by law they ought to have been, one tenth (after Customs allowed) and one third part of the value thereof, the Customs and the said tenth being deducted, are, by act of parliament, appropriated to especial uses; by which proceedings, the public has been greatly endamaged and defrauded, and the Debts of the nation increased.

V. "And whereas Complaints were made to the Commissioners for executing the office of Lord High Admiral of England (where the said Earl at that time presided), by the Company trading to the East Indies, of divers Piracies committed in the South East Seas, to the destruction of their Trade, desiring they might have Letters of Marque granted to them, whereby to be empowered (though at their own charge) to suppress such pirates: but the said Earl, preferring his own interest, discouraged and rejected their request and proposal; and in some short time after, jointly with others, did procure a Commission for one Wm. Kidd; as likewise a Grant under the great seal of England, to and for the use of him the said Earl and others, of the Ships and Goods of certain persons therein named, and also of all Goods found on board the said ships: and the said Company, having intimation of a Commission granted to the said Kidd, being apprehensive of the ill consequences of the same, did apply themselves to the said Board of Admiralty, desiring to know what Powers and Instructions were given; but such their reasonable request was denied; and Kidd, who was known to be a person of ill fame and reputation, ordered to pursue the intended voyage, in which he did commit divers Piracies and Depredations on the high seas, being thereto encouraged through the hopes of being protected by the high station and interest of the said Earl, in violation of the law of nations, and the interruption and discouragement of the Trade of England.

VI. "That the said Earl, within the time aforesaid, when an horrid Conspiracy was discovered against his majesty's sacred person, and the kingdom was under an apprehension of an immediate Invasion from France, and divers ships of war (particularly the ship Dutchesse) were armed out, equipped, and manned, in defence of the realm, to oppose the intended Invasion, did his utmost endeavour to prejudice and weaken the navy royal of England; for that he the said Earl, by colour of his office (being the First Commissioner for executing the office of Lord High Admiral of England), without the privity of the other Commissioners, contrary to his oath and duty, and preferring his hopes of gain to himself to the safety of the public, did order Capt. Steward, commander of the ship Dutchess, to deliver over, and put on board the said Kidd, mentioned in the foregoing Article, out of the said ship Dutchess, a great number of able seamen, levied and provided at the expence of the public, and then discharging their duty in defence of their country, and against their own consent, to the prejudice of the public security, and to the endangering of the said ship Dutchesse, if it had been attacked by the enemy.

VII. "That the said Earl, during the said War, and at a time of the greatest exigency and necessity, when ships, men, and money were wanting, to guard the seas and protect our trade, did by misrepresentations, and contrary to his bounden duty and the trust reposed in him, procure a grant or order for his majesty's ship The Dolphin, then fitted out, manned, and equipped for the service of the public, to be employed in a private voyage and undertaking, for the advantage of himself and others concerned with him; in pursuance whereof, and for their private gain, the said ship was, at the public expence, continued in foreign parts for several months, to the destruction and loss of his majesty's subjects on board the same, to the weakening the Navy, by rendering the said ship unserviceable, and the increasing the Debts of the public.

VIII. "That the said Earl, during the time of his commanding the navy royal of England, did, through neglect and in contempt of orders, unnecessarily hazard and expose to imminent danger the said Navy; and that, during the time aforesaid, having had many opportunities of taking or destroying the ships belonging to the French king, the said Earl, contrary to advice, in disobedience to orders, and in neglect of his duty, did suffer and permit the said ships to return safe into their own harbours.

IX. "That the said Earl, well knowing our sovereign lord the king to have been engaged in several Alliances with the emperor of Germany and other princes and states, particularly in a Treaty concluded with his Imperial majesty, in the year of our Lord 1689; the end

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and intention of all which Leagues and Treaties were, to prevent the Growth of the Power of the French king, and to secure England, and the antient allies of England, against the same; did notwithstanding, in concert with other false and evil counsellors, advise our said sovereign lord the king, in the year 1698, to enter into one Treaty for dividing the monarchy and dominions of Spain; in pursuance whereof, in the year 1699, one other Treaty was entered into for the like purpose, by which Treaties great injustice was done to the Emperor, an antient Ally of our said sovereign lord the king; and a large part of the said Spanish dominions were to be added to the crown of France; both which Treaties were prejudicial to the Interest of the Protestant religion all over Europe, ruinous to the Trade of England, and dishonourable to our sovereign lord the king, and the people of these kingdoms. All which Crimes and Misdemeanors were committed and done by him the said Earl against our sovereign lord the king, his crown and dignity, the peace and interest of this kingdom, and in breach of the several trusts reposed in him the said Earl.

X. "And he the said Earl of Orford was one of the Lords Justices during his majesty's absence beyond the seas, the First Commissioner for executing the office of Lord High Admiral of England, Commander in Chief of his majesty's Navy Royal, one of his majesty's Privy Council, and Treasurer of his majesty's Navy, or in some or one of the said stations, during the time that all and every the Crimes before set forth were done and committed.

"That the said Commons, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any other Accusation or Impeachment against the said Earl; and also of replying to his Answers, or to any of them, and of offering proofs to all the said premises, or any of them, or any other Impeachment or Accusation that shall be exhibited by them, as the case shall according to the course of parliament require; do pray and demand that the said Earl may be put to Answer for all and every of the premises; and that such Proceedings, Examinations, Trials, and Judgments, may be upon every of them had and used, as is agreeable to law and justice."

The Earl of Orford's Answer to the above Articles of Impeachment.] May 14. The Earl of Orford delivered his Answer to the above Articles of Impeachment: which was read, by the clerk, as follows:

"The ANSWER of EDWARD earl of ORFORD, to the ARTICLES exhibited against him by the knights, citizens, and burgesses, in parliament assembled, in the name of themselves, and of all the commons of England, in maintenance of their Impeachment against the said Earl, for high Crimes and Misdemeanors supposed to be committed by him.

"The said Earl, saving to himself all advantages of Exception to the said Articles, and of not being prejudiced by any words or want of form in this his Answer, and saving to him all privileges and rights belonging to him as one of the peers of this realm; for Answer to the said Articles, humbly saith,

I. "To the First Article, That he having for several years rendered his majesty his utmost service and duty, as a good and loyal subject ought to do; his royal majesty was graciously pleased, upon several occasions, to take notice of the same; and, out of his wonted bounty and of his free will, was pleased to give the said Earl two Grants, one whereof was a Reversionary grant for years, of some houses, depending upon a then precedent estate for about 29 years; which being a reversionary interest at so great a distance, although the said Earl thankfully received the same from his majesty, as his grace and bounty, yet the same was of no great value: and the other of them was a Grant of the remainder of a gross sum, amounting to about 2000*l.* a year for 5 years; which are the only Grants of any manors, messuages, lands, tenements, hereditaments, or sums of money whatsoever, which he, or any in trust for him, hath had from his majesty; and which said two Grants his majesty was graciously pleased, after many years service, freely to bestow upon him the said Earl, without any surprize, sinister or indirect means of the said Earl in obtaining the same; and which Grants, he humbly conceives, were not unusual in like cases; the accepting whereof, he humbly hopes, was not any violation of his duty, or of any trust in him the said Earl reposed.

II. "To the Second Article, the said Earl answereth, and denieth that he at any time converted to his own private use any public Money, issued to him for the service of the Navy; or that he the said Earl ever procured or had any privy seal or privy seals, to discharge him from accounting for the same: but saith, That he the said Earl did make up, and upon oath pass his Accompts, for the monies imprest to him for the service in this article mentioned, which Accompt was legally declared and passed, upon very strict and great examination, by the Lords Commissioners of the Treasury; and he the said Earl hath his *quietus est* in due course of law upon the same. But the Commissioners of the Victualling-office making some unusual objections to part of the said Accompt, concerning some provisions furnished to the fleet by the said Earl in the king of Spain's dominions, although the same were truly and really had and spent by the seamen in the fleet, and paid for by him the said Earl, and which objections in like cases had not been made, or stood upon, nor could be reasonably expected; his majesty was pleased to direct and order a privy seal, to dispense with the form in that particular; but the said Earl did make no advantage to himself thereby, nor was his majesty or the government in the least defrauded therein; it appearing, upon a very strict examination, that less rates were allowed for the said provisions, than had been allowed

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before in like cases, or, as the said Earl is informed, hath been since allowed: and to the latter part of the said Article saith, That, for the monies by him received as Treasurer or Receiver-general of the Navy, he hath already delivered in his Accompts, and is ready to perfect the same according to the ordinary method, some of them lying ready with the auditors to be declared, and the rest of them being made up, and delivered in to be examined, in order to be passed; and saith, after just allowances had, he does not believe he shall appear to be indebted upon the said Accompts; and also denies that any persons are sufferers for want of their dues in respect of the said Accompts, or that the public service is, or hath been, any ways discouraged or discredited thereby, as in the said Article is alledged.

III. "To the Third Article, the said Earl answereth, and denies that he received any Monies whatsoever from the king of Spain, or any other person, as in the Article is alledged; and saith, That what wine, oil, or other provisions, were received from the king of Spain, or any others, for the Fleet, were duly delivered and distributed amongst the officers and seamen thereof; and denies he did convert the same to his own use, or did embezzle any of the Provisions, or reckoned them, or any part of them, as bought with the money allowed for furnishing the Navy with fresh Provisions; and does also deny that he the said Earl did enjoy any Offices inconsistent in their nature (as he is advised) one with the other, or which were, or ought to be, Checks one upon the other; or that he any ways secured or pretended to secure himself from rendering any Account to the public, by any office or offices whatsoever; or that he is guilty of the breach of any laws, to his knowledge, by executing any office or offices, or ever executing the same, to the dishonour of his majesty, or to the prejudice of his people, as in the said Article is alledged.

IV. "To the Fourth Article, the said Earl answereth, and saith, He believes, that the Prizes taken in the late War were appropriated as by the act of parliament in that behalf is provided; but denies that he did, at any time, sell or dispose of any vessel or vessels, or their ladings or cargo, taken, as or under the pretence of Prize, by any of his majesty's ships of war, without condemnation or judicial proceedings, or converted the monies arising by Sale of any vessel or vessels, or their lading or cargo, taken, as or under pretence of Prize, by any of his majesty's ships of war, to his own use; but, on the contrary, did, from time to time, in his station, give orders, that the Prizes taken should be carefully preserved without embezzlement, and duly proceeded against, and the produce answered as the law directs; and therefore humbly insists, that the public hath been no ways endamaged, or the debts of the nation increased, by any neglect or default of the said Earl.

V. "To the Fifth Article, the said Earl saith, That the East India Company, about the beginning of March 1696, did apply to the Admiralty Board, of which the said Earl was one, to empower their ships and officers to seize and take all pirates infesting the seas within the limits of their charter, and likewise to erect a Court of Admiralty in those parts, to try and condemn such Pirates as they should take; upon which application, the Board of Admiralty did take advice, and were informed they had no authority to grant the same; and denies he the said Earl ever discouraged or rejected the Company's request therein, unless it were by telling them that the Admiralty by law could not grant the same; and denies that the Company was ever denied Letters of Marque in common form, to the knowledge of the said Earl: And saith, as to the matter of Kidd in this Article mentioned, he was gone upon his Expedition about 12 months before that time; and as to his Commission, and the Grant in the said Article mentioned, the said Earl humbly conceives, and is advised, the same were not contrary to law; but sure he is, the said Expedition was intended for the public good and service; and saith, the said Kidd had no Powers or Instructions from the Board of Admiralty, other than the ordinary and common Letters of Marque, the contents whereof are common, and well known to merchants. And the said Earl doth deny, that he knew the said Kidd to be of ill fame and reputation; but in case the said Kidd hath committed any Piracies, he the said Kidd is answerable, and ought to answer for the same, he never being ordered by the said Earl so to do; nor had he ever any the least encouragement given him by the said Earl, or any other to his knowledge, to expect or hope for any protection therein, or in any illegal action done or committed by him.

VI. "To the Sixth Article, the said Earl saith, he believes it to be true, that there was a horrid and barbarous Plot and Conspiracy against his majesty's sacred person, and that there was an apprehension of an immediate Invasion; but the said Earl hopes no neglect of duty in his station can be imputed to him to prevent the same: And as for the ship Dutchess, which was, amongst many others, armed and equipped in defence of the realm, the said Earl saith, That the men, in the said Article mentioned to be taken from on board her, were but some of the very persons that were just before taken from on board captain Kidd, and returned by their own consent on board captain Kidd again, not being above 20 in number; and saith, all fears of the Invasion were then over and at an end: and denies that the same was intended to weaken, or did weaken, the said ship or the Navy royal; or that the said seamen, so returning on board the said Kidd, were levied or provided at the expence of the public; or did return, or were put on board the said Kidd, against their own consent, or to the prejudice of the public security; or that the ship Dutchess was thereby endangered, if she had been attacked, as in the said Article is alledged.

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VII. "To the Seventh Article, the said Earl answereth, and denies that he did, by misrepresentation or otherwise, obtain or procure a Grant or Order for his majesty's ship Dolphin to be employed in a private voyage or undertaking; but what was done therein was done after the Peace concluded, and by his majesty's command, at the instance and request of other persons, and not of the said Earl, but contrary to his opinion; nor was the said Earl any way concerned in interest therein, till after his majesty's orders were given about the said ship; and then, and not before, some of the persons concerned in the said Adventure desired the said Earl to take some shares therein (the number whereof he doth not remember), which the said Earl accordingly did; but humbly insists, that his actings therein were not contrary to his duty, or the trust in him reposed, or the debts of the nation thereby increased.

VIII. "To the Eighth Article, the said Earl answereth, and denies that at any time, while he commanded the Navy Royal, he did, through neglect or contempt of Orders, unnecessarily hazard or expose to danger the said Navy; and also denies that, upon any opportunity of taking or destroying the ships of the French king, he did, contrary to advice, or in disobedience to orders, neglect to do the same; and also denies that he did suffer or permit any of the French king's ships to return into their own harbours when he had opportunity to prevent the same; and humbly insists, he is not guilty of any neglect or omission of his duty herein, nor did expect in this particular to be charged therewith, considering his faithful services rendered against the French fleet.

IX. "To the Ninth Article, the said Earl saith, he believes it to be true, that his majesty hath been engaged in several Alliances with several princes, and particularly with the Emperor in the year 1689; and that the end of those Alliances was, to prevent the Growth and Power of France, and to secure this kingdom and its allies; but the said Earl does deny that he did advise his majesty to enter into the Treaty of Partition charged upon the said Earl in this Article; and so far as the said Earl was any ways acquainted therewith, he objected to, and gave his opinion against, the same.

X. "To the Tenth Article, the said Earl answereth and saith, That true it is, his majesty was pleased to employ and intrust him in the several Offices and Stations in this Article mentioned for several years, as his majesty's occasions required, although not for all the time in the said Article mentioned; and hopes, and humbly insisteth upon it, that he the said Earl did, from time to time, according to his duty and the trusts in him reposed, discharge the said offices and employments with loyalty, faithfulness, and zeal to his majesty and his people.

"And having thus laid his Case before your lordships; he the said Earl does humbly insist and answer to the said Impeachment, and all and every the Articles aforesaid exhibited against him, That he is Not Guilty of all or any of them, or of all or any the matters or things by the said Articles charged, in manner and form as the same are therein and thereby alledged against him; and that the matters by him before set forth to be done and transacted, or any of them, were not done or committed by him the said Earl against our sovereign lord the king, his crown or dignity, or the peace or interest of this kingdom, or in breach of the trusts reposed in him the said Earl; and humbly submits himself herein to your lordships Judgment. ORFORD."

Articles of Impeachment against the Lord Sommers.] May 19. The Commons sent up by Mr. Harcourt the following Articles of Impeachment against John lord Sommers, viz.

"ARTICLES exhibited by the knights, citizens, and burgesses in parliament assembled, in the name of themselves and of all the commons of England, against JOHN Lord SOMMERS, baron of Evesham, in maintenance of their Impeachment against him for High Crimes and Misdemeanors.

"I. That a Treaty and Alliance, between Leopold the emperor of Germany and the States General of the United Provinces, was made and concluded, in 1689, upon their consideration of the greatness of the common danger which then threatened all Christendom, from the excessive power of France, and the unconstant faith of the French in the observance of treaties; whereby it was agreed, that there should be, and remain for ever, a constant, perpetual, and inviolable friendship and good correspondence, between his Imperial majesty and the States General; that each of them should be obliged to promote the other's interest, and, as much as in them lay, prevent all damages and inconveniences to each other. —That, during the continuance of the war, there should be, not only a defensive, but also an offensive alliance, between the said parties; by virtue whereof they should both of them act in an hostile manner, with all their forces by sea and land, against the French king, and such of his allies as should refuse to separate themselves from him.—That, after the war should be ended, and a peace concluded, there should remain, between his Imperial majesty, his heirs and successors, and the States General, a perpetual defensive alliance, against the crown of France and its adherents.—That, if the crown of France should again attack either of the said confederate parties, at what time soever the same should be done, they should faithfully assist each other.—That his Imperial majesty and the States General should at all times, by all means, with all their forces, protect and defend all the rights of each other, against the crown of France and its adherents.—And other Provisions were thereby made for their mutual security, as well during the continuance of the war, as after the conclusion of a peace. —That certain separate articles were also at or about that time made, whereby the States

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General maturely considering that France had openly declared in several courts, that (notwithstanding the most solemn renunciation) they continued their pretensions, by force of arms, to assert for the Dauphin the Succession of the Spanish monarchy, in case the king of Spain should die without issue; and also considering what a blow their state would receive, and what a prejudice might happen thereby to the public affairs and quiet, did promise, that in case his said Catholic majesty should die without lawful issue, they would, with all their forces, assist his said Imperial majesty, or his heirs, in taking the Succession of the Spanish monarchy, lawfully belonging to that house, together with its kingdoms, provinces, dominions, and rights; and in their obtaining and securing the quiet possession thereof against the French, and their adherents, who should directly or indirectly oppose that Succession; and, with force, repel the force which should be brought against them:—That, at the instance of the States-General, in pursuance of the said Treaty, and separate articles, our most gracious lord and sovereign his most excellent majesty king William the third was invited to enter into the alliance of the aforesaid Treaty, and into the agreement of the said separate articles; and thereupon, for restoring and preserving the public peace and quiet, did afterwards, in the said year 1689, enter into, and, under the great seal of England, accept, approve, and ratify, and, in the most solemn manner, engage and promise religiously and inviolably to observe, the same, without violating the said Treaty, or separate Articles, in any article, or suffering the same, to the utmost of his power, to be violated:—That, in 1698, a Treaty was projected and contrived in France, to be set on foot between his majesty, the French king, and the States-General, for a Partition of the Spanish monarchy; whereby many large territories, thereunto belonging, were to be allotted and delivered up to France:—That the tenour and design of the said last-mentioned Treaty, whilst the same was in negotiation, was communicated to the said John lord Sommers, then one of the lords justices of England, lord chancellor of England, and one of his majesty's most honourable privy-council:—That the said lord Sommers, well knowing the most apparent evil consequences, as well as the injustice, of the said Partition, did not, according to the trust and duty of his said several offices, dissuade, or endeavour to obstruct, its taking effect; but, on the contrary, having neither regard to his majesty's honour, engaged by the said Treaty with the emperor and States-General, as aforesaid, to the trade and known interest of this kingdom, or the peace of Europe, did advise his majesty to enter into the said Treaty; and did so far encourage and promote the same, that the said Treaty was concluded, and ratified under the great seal of England, then in the custody of the said lord Sommers; and thereby the kingdoms of Naples and Sicily, the places depending on the monarchy of Spain situate on the coast of Tuscany, or the adjacent islands, comprehended under the name of Santo Stephano, Porto Hercolo, Orbitello, Telamone, Porto Longone, Piombino, the town and marquisate of Final, the province of Guypuscoa, particularly the towns of Fontarabia and St. Sebastian, situate in that province, and especially the Port of the Passage, which is therein comprised, with several other parts and things of or belonging to the said kingdom of Spain, were allotted to the dauphin for his share; and the crown of Spain, and the other kingdoms, islands, states, countries, and places, depending thereon, (except such part as aforesaid, which was thereby allotted to the dauphin for his share, and the duchy of Milan, hereinafter mentioned;) was given and assigned to the electoral prince, eldest son to the elector of Bavaria, for his share, to enjoy the same, to him, his heirs, and successors, for ever, never to be molested therein, or on any pretence of rights or claims on the part of the French king, or the dauphin, or his issue, heirs or successors; nor on the part of the emperor, the king of the Romans, the arch-duke Charles his second son, and other children, or his heirs and successors; and the dutchy of Milan was thereby agreed to be given to the said arch-duke for his share, and in extinction of all pretensions and rights, which the said emperor, the king of the Romans, the said archduke Charles, &c. might have to the said Succession of Spain: by which Treaty it was also further agreed, that if any prince whatsoever should oppose the taking possession of the shares thereby agreed on as aforesaid, his majesty, the French king, and the States General should assist one another against such opposition, and hinder the same with all their power.

"That, by a secret Article of the said Treaty, in like manner ratified under the great seal of England, it was provided, That, if the king of Spain should die without issue, and the electoral prince of Bavaria should afterwards die without issue, his electoral highness of Bavaria, his father, should succeed him in all the kingdoms, islands, states, countries, and places, assigned to the electoral prince as aforesaid, and enjoy the same, to him, and his children, successors and heirs, then born, or to be born, so as neither the emperor, his children, nor any other person, should or might, under any pretext, form the least pretension to that Succession; his majesty, the French king, and States General thereby engaging themselves to employ all their power, by land and by sea, for maintaining the order established by the said secret Article, relating to the Succession of the monarchy of Spain.

That the said Treaty was ratified under the great seal of England (then in the custody of the said lord Sommers), as an agreement between his majesty, the French king, and States General, notwithstanding the said lord Sommers well knew that the same had been con-

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cluded between his majesty's commissioners and the French ambassador or the commissioner of the French king only, and that the purport thereof had never been communicated to the States General at the time of the ratification thereof under the great seal of England, notwithstanding the negotiation thereof in Holland.

"II. That, for the more effectual carrying on the said Treaty, one or more commission or commissions was or were prepared, amended, enlarged or altered, by the said lord Sommers, without any lawful warrant for his so doing; whereunto the said lord Sommers, contrary to the duty of the said several offices, and in violation of the great trusts reposed in him, in or about the month of September, 1698, without communicating the same to the rest of the then lords justices of England, or advising in council with his majesty's privy council thereupon, did presume to affix the great seal of England.—That no certain persons of known honour, fidelity, and experience, were therein nominated commissioners at the time of the affixing the great seal of England thereto; but a blank, or empty space, was left in the said commission or commissions, at the time of the sealing thereof, wherein the commissioners names were to be afterwards inserted beyond the seas: notwithstanding which, an unlimited power was thereby granted to the commissioners, whose names were therein afterwards to be inserted as aforesaid, or to either of them, without any written instructions whatsoever, to restrain, guide, or direct them in the exercise thereof, in his majesty's name, to confer and treat with the commissioner or deputy, or commissioners or deputies, of the French king, and also with the commissioners or deputies of the States General, for preserving the public peace, and touching the Succession to the crown of Spain, and his majesty did thereby engage himself to approve, ratify, and confirm whatsoever should be thereupon concluded by them or either of them.

"III. That the said lord S. contrary to the duty of his said office of lord chancellor, did affix the great seal of England to the said commission or commissions, not having first received any lawful warrant for that purpose: in hopes of concealing which evil and most dangerous practice, the said lord S. after he had sealed the said commission or commissions, used his endeavours to procure a warrant to be transmitted to him for affixing the great seal to the said commission or commissions, and that it might not be known but that he had it in due time.

"IV. That the said lord S. contrary to the duty of his said several offices, affixed the great seal of England to the ratification of the said Treaty made in the year of our Lord 1698, not having first communicated the same to the rest of the then lords justices of England, or advised in council with his majesty's privy council thereupon; and, at the time of his affixing the great seal thereto, one entire blank sheet and many other blanks were left in the said ratification, with an intent to be afterwards filled up by other persons beyond the seas, as should be thought fit.

"V. That, in 1699, another Treaty was entered into, in pursuance of the said Treaty made in 1698, and concluded by and between his majesty, the French king, and the States General, and also ratified under the great seal of England, then in the custody of the said lord S. whereby the kingdom of Spain (in case his Catholic majesty should die without issue) was agreed to be divided, and many large territories thereof were allotted to the dauphin for his share; which Treaties were evidently destructive of the trade of this realm, dishonourable to his majesty, highly injurious to the interest of the Protestant religion, and manifestly tended to disturb the general peace of Europe, by altering the balance of power therein, and strengthening France against the good friends and ancient allies of our sovereign lord the king.

"VI. That whereas, by the laws and usages of this realm, all commissions under the great seal of England, for the making any treaties or alliances with any foreign princes, states, or potentates, and all ratifications under the great seal of all such treaties or alliances, ought to be enrolled and entered of record in the court of Chancery, with or by the prothonotary of the said court, for a perpetual memorial thereof; and that the merchants and other subjects of England, having commerce or correspondence in foreign parts, may not, through ignorance of the same, incur the pains and penalties by the law due to those who shall any ways infringe, break, or act contrary to such treaties; he the said lord Sommers, not minding the duty of his office, did not in any manner enrol or enter of record, or cause to be enrolled or entered of record, any of the said commissions or ratifications, in the foregoing articles mentioned, as by the duty of his place he should and ought to have done; but so to do did totally neglect and omit, in breach of his duty, and in violation of the laws of this realm.

"VII. That the said lord S. when the custody of the great seal of England was committed to him, did swear, well and truly to serve our sovereign lord the king, and his people, poor and rich, after the laws and usages of this realm, and truly to counsel the king, and his counsel to keep, and not to know nor suffer the hurt or disinheriting of the king, or that the rights of the crown should be decreased, as far forth as he might let it; and if he could not let it, that he would make it clearly and expressly to be known unto the king, with his true advice and counsel; and that he should do and purchase the king's profit in all he reasonably might; or to that effect: and the said lord S. afterwards took the said oath, as lord chancellor of England.—That the said lord S. being lord keeper of the great seal, or lord chancellor of England, and one of his majesty's most honourable privy council, whilst this nation was engaged in a tedious and most expensive war against the French king, for preserving the balance and liberties of Europe,

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and almost exhausted with supplies and taxes for carrying on the same, and under such heavy debts, as, without the utmost frugality, or laying insupportable taxes on the commons of England, were impossible to be satisfied, contrary to his said oath, did pass many great, unreasonable, and exorbitant Grants, under the great seal of England, of divers manors, lordships, lands, tenements, hereditaments, revenues, and interests, belonging to the crown of England, amounting to a most prodigious and excessive value; and did advise, promote, and procure, divers great, unreasonable, and exorbitant Grants to be made, of several of the late Forfeited Estates in Ireland, in contempt of the advice of his majesty's most dutiful and loyal subjects the commons of England in parliament assembled, and without any regard to his majesty's most gracious assurance thereupon to both his houses of parliament; and engaged to procure, and accordingly did procure, divers acts prepared for confirming the said Grants in parliament in Ireland, to be approved in council in England; and afterwards remitted the same, under the great seal of England, to be passed into laws in Ireland.

"VIII. That the said lord S. during the time of his being Lord-Keeper of the great seal and lord chancellor of England, did not only receive and enjoy the fees, profits, and perquisites, of or belonging to the great seal, established by law as a sufficient and ample recompense and reward for the faithful discharge of that high station; but also, as a further encouragement, through his majesty's most abundant grace and bounty, received an annual pension or allowance from the crown of 4,000*l.* and many other profits and advantages; notwithstanding which, the said lord S. not being contented therewith, contrary to his said oath, begged and procured for his own benefit many great, unreasonable, and exorbitant Grants of several manors, lands, tenements, rents, hereditaments, and revenues, belonging to the crown of England:—That, in or about the month of April 1697, the said lord Sommers, being then lord chancellor of England, and of his majesty's most honourable privy-council, contrary to his said oath, did procure and pass a Grant under the great seal of England, without any real consideration whatsoever, to Joseph Jekyll, esq. and his heirs for ever, of the manor or manors of Rygate and Howligh, with all and singular their rights, members, and appurtenances, situate and being in the parish of Rygate, or elsewhere, in the county of Surrey, and of all quit-rents, rents of assize, free rents, conventionary rent-, copyhold and customary rents, and all other rents whatsoever, to the said manor or manors belonging or appertaining, with the site of the ruined castle, and of all other demesne lands of the said manor or manors, with the rents reserved on any leases then in being, of any parts thereof, and of all other lands, meadows, feedings, pastures, messuages, houses, edifices, buildings, barns, stables, dove-houses, tolls of market or fairs, with the market-house there; and also of all warrens, chaces, parks, commons, woods, underwoods, woodlands, waste grounds, courts-leet, courts-baron, and other courts, services, franchises, heriots, fines, issues, amerciaments, and all other profits and perquisites of the said courts, rights, royalties, and jurisdictions, and of divers other matters, hereditaments, and appurtenances, to the said manor or manors, or either of them, or to the royalties thereof, belonging, or in any-wise appertaining; which premises were parcel of the demesnes and revenues of the crown, and of the value of 12,000*l.* and upwards:—That, under pretence of purchasing divers fee-farm rents, and other rents, vested in trustees for sale thereof, in pursuance of several acts of parliament, made in the reign of his late majesty king Charles 2; the said lord Somers, in 1697, procured a warrant from his majesty, under his sign manual, to the commissioners of the treasury then being, to contract, or give warrant to the trustees for sale of fee-farm rents to contract, with Humphrey Hetherington, esquire, or such as he should nominate, for as many fee-farm and other rents, then remaining unsold, except such rents as were set apart for payment of pensions in the pension deed, as should amount unto 800*l.* per annum, at the rate of 16 years purchase; and that, upon such contract, the said commissioners of the treasury should give warrant for conveying the said rents to the said Humphrey Hetherington, or such as he should appoint, and his heirs:—That, under the like pretence, and at or about the same time, the said lord S. procured another warrant from his majesty, under his sign manual, to the said commissioners of the treasury, to contract, or give warrant to the said trustees to contract, with Rd. Adny, esq. or such as he should nominate, for as many fee-farm and other rents, then remaining unsold, except as aforesaid, as should amount to 700*l.* per annum, at the rate of sixteen years purchase; and that, upon the said contract, the said commissioners should give warrant for conveying the said rents unto the said Rd. Adny, or such as he should nominate, and his heirs:—That, under the like pretence, and at or about the same time, the said lord S. procured another warrant from his majesty, under his sign manual, to the said commissioners of the treasury, to contract, or give warrant to the said trustees to contract, with Samuel Newton, esq. or such as he should nominate, for as many fee-farm and other rents, then remaining unsold, except as aforesaid, as should amount unto 600*l.* per annum, at the rate of 16 years purchase; and that, upon such contract, the said commissioners should give warrant for conveying the said rents unto the said Samuel Newton, or such as he should nominate, and his heirs:—That, in pursuance of warrants of the said commissioners of the treasury thereupon, certain contracts were made, or pretended to be made, with the said Humphrey Hetherington, Richard Adny, and Samuel Newton, for the real sale of divers fee-farm rents, and other rents, of the several and respective yearly values aforesaid;

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by virtue whereof, the said Humphrey Hetherington, Richard Adny, and Samuel Newton, became obliged to pay into the receipt of his majesty's exchequer at Westminster, for the purchase of the several and respective rents to them respectively to be conveyed, as aforesaid, the sums herein after mentioned; that is to say, The said Humphrey Hetherington 12,800*l.* the said Rd. Adny 11,200*l.* and the said Samuel Newton 9,600*l.* :—That, in pursuance of such contracts, or pretended contracts, through the power of the said lord Sommers, and by his means and procurement, divers fee-farm rents, and other rents, were, by certain indentures tripartite of bargain and sale, bearing date on or about the 6th of Jan. 1697, in consideration of 3,200*l.* therein mentioned to have been paid by the said Humphrey Hetherington, unto his majesty, at the receipt of his exchequer at Westminster, or by other assurance in the law, granted and conveyed by the said trustees, by the appointment of the said Humphrey Hetherington, to Leonard Hancock, of Cheshunt, in the county of Hartford, esquire, and John Warner, of the parish of St. Clements Danes, in the county of Middlesex, goldsmith, and their heirs :—And, by other indentures of bargain and sale, of the same date, or other assurance in the law, divers other fee-farm rents, and other rents therein mentioned, in consideration of 9,600*l.* therein mentioned to have been paid by the said Humphrey Hetherington to his majesty, at the receipt of his exchequer at Westminster, being the residue of the said sum of 12,800*l.* were, by the said trustees, granted and conveyed to the said Humphrey Hetherington, and his heirs; which fee-farm and other rents, so conveyed unto, or by the appointment of, the said Humphrey Hetherington, amount to the full yearly value of 800*l.*—And, by other indentures of bargain and sale, of the same date, or other assurance in the law, and in consideration of 2,400*l.* therein mentioned to have been paid by the said Richard Adny unto his majesty, at the receipt of his exchequer at Westminster, other fee-farm rents, and other rents, were, by the appointment of the said Rd. Adny, granted and conveyed, by the said trustees, to the said Leonard Hancock and John Warner, and their heirs.—And, by other indentures of bargain and sale, of the same date, or other assurance in the law, in consideration of 8,800*l.* in the same indentures mentioned to have been paid by the said Rd. Adny to his majesty, at the receipt of his exchequer at Westminster, (being the residue of the said sum of 11,200*l.*) divers other fee-farm rents, and other rents therein mentioned, were granted and conveyed, by the said trustees, to the said Rd. Adny and his heirs; which fee-farm and other rents, so conveyed to or by the appointment of the said Rd. Adny, amount to the full yearly value of 700*l.* per annum.—And, by other indentures of bargain and sale, bearing date on or about the 25th of April 1698, or other assurance in the law, in consideration of 2,400*l.* therein mentioned to have been paid by the said Samuel Newton to his majesty, at the receipt of his exchequer at Westminster, other fee-farm rents, and other rents therein mentioned, were, by the appointment of the said Samuel Newton, granted and conveyed, by the said trustees, to the said Leonard Hancock and John Warner, and their heirs.—And, by other indentures of bargain and sale, of the same date, or other assurance in law, in consideration of 7,200*l.* therein mentioned to have been paid by the said Samuel Newton to his majesty, at the receipt of his exchequer at Westminster (being the residue of the said sum of 9,600*l.*) divers other fee-farm rents, and other rents therein mentioned, were granted and conveyed, by the said trustees, to the said Samuel Newton and his heirs; which said several rents, so conveyed unto or by the appointment of the said Samuel Newton, amount to the yearly value of 600*l.*—That the said several manors and rents aforesaid were granted to the said Joseph Jekyll, Humphry Hetherington, Rd. Adny, and Samuel Newton, and their heirs respectively, as aforesaid, in trust only for the said lord Sommers and his heirs.

"IX. That the said lord S. in order to procure a grant of the said fee-farm rents for his own benefit, whilst he was lord chancellor of England, and one of his majesty's most honourable privy council, whilst his majesty was engaged in the said war, and the nation under such heavy debts as aforesaid, did enter into several treaties, and had many communications, with divers persons intrusted with the care and management of the said fee-farm rents: and particularly with Reginald Marriot, of the parish of St. Clement Danes in the county of Middl'x, auditor of the rates, or acting as auditor; and with John Digby, of the parish of St. Bride's, London, clerk of the trustees for sale of the said fee-farm rents, and other evil-disposed persons; and for encouraging the said Marriot, Digby, and others, to discover to him such particular fee-farm and other rents as then remained undisposed of, to the intent the said lord S. might beg the same, he the said lord S. contracted and agreed with the said Marriot, to give the said Marriot, for himself and his accomplices, as a reward for the said discovery, one full fourth part of all such rents so discovered, whereof the said lord Sommers should procure a grant from the crown; and accordingly the said several grants from the said trustees to the said Hancock and Warner, being together of the yearly value of 500*l.* per annum and upwards, were so made, by the direction of the said lord Sommers, in trust for the said Marriot, Digby, or others.

"X. That, notwithstanding the said pretended contracts and payments, there was not any sum of money whatsoever really and bona fide paid, as the consideration of the conveyances of the said rents, from the said trustees; but such contracts and payments of the said several considerations, amounting in the whole to 33,600*l.* were colourably and fraudulently contrived and made, by the direction of the said

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lord Sommers, contrary to his said oath, in deceit of his majesty, and elusion of the said acts of parliament.

"XI. That many quit rents and copyhold rents, standing in charge as parcel of, or belonging to, several manors, or reputed manors, rents reserved upon leases or estates, the reversion whereof was in his said majesty king Charles 2nd at the making the said acts, rents conveyed before in lease, or granted to other persons, rents appropriated by, or in pursuance of, act or acts of parliament for payment of pensions, stipends, salaries, annuities, alms, and allowances for the maintenance of grammar schools or scholars, or for or towards the reparation of churches, chapels, highways, causeys, bridges, schools, alms-houses, castles or other uses, and many quit rents of manors, and other rents, by act of parliament united and annexed to the castle of Windsor, with intent to support and maintain the yearly reparations and charges of the said castle, and discharge and pay the fees and wages of the officers, servants, and attendants in the same castle, and the forests, chases, and parks to the same belonging, and for many years applied according to the intention of the said act, and also many quit rents of or belonging to divers ancient manors, heretofore and yet parcel of the demesnes or possessions of the crown, as if the same had been entire fee-farm rents, issuing out of those manors, were by the aforesaid several indentures of bargain and sale, through the direction and power of the said lord S. conveyed, by the said trustees for sale of fee-farm rents, to the said Humphry Hetherington, Rd. Adny, and Samuel Newton, and to the said Hancock and Warner, and their heirs, or unto some of them, contrary to the true intent and meaning of the said acts of parliament, to the great vexation and oppression of many of his majesty's good subjects, and creating many new and unreasonable charges on other revenues of the crown.

"XII. That, by the direction of the said lord S. the said Humphry Hetherington, Rd. Adny, Samuel Newton, Leonard Hancock and John Warner, surrendered several of the said rents to them granted as aforesaid, amounting to the yearly value of 347*l.* 11*s.* 5½*d.* on suggestion that the same were either conveyed before in lease, set apart for payment of pensions, old supers, bad or illeviable, or part thereof bad or illeviable, or wrong conveyed: and the said lord S. in 1699, being then lord chancellor of England, and one of his majesty's most honourable privy-council, in breach of his duty, and contrary to the laws and statutes of this realm, procured other rents, of the yearly value of 39*l.* 0*s.* 3½*d.* to be allowed by way of reprize, and to be conveyed to Rd. Adny, and his heirs, in trust for the said lord S. and his heirs, as if the said yearly rents of 347*l.* 11*s.* 5½*d.* so surrendered, had been, really and bona fide, purchased, in pursuance of the said acts for sale of fee-farm rents.

"XIII. That, in 1695, the said lord S. being then lord keeper of the great seal of England, as also one of his majesty's most honourable privy-council, together with Edward earl of Orford, then first commissioner for executing the office of lord high admiral of England, and commander in chief of his majesty's navy royal, and one of his majesty's most honourable privy-council, Richard earl of Bellamont in the kingdom of Ireland, governor of New-York and New-England, and others, then in high stations, and in great power and authority, procured a commission to be granted unto one Wm. Kidd, a person of evil fame and reputation, and since that time convicted of piracy, to apprehend, and take into his custody, divers persons therein named, and all such pirates as the said Kidd should meet with upon the coasts or seas of America, or in any other seas or parts, with their ships and vessels, and also such merchandizes, goods, and wares, as should be found on board, or with them: And afterwards the said lord S. in 1697, with the assistance of the said earl of Orford, and other persons aforesaid, procured a Grant from his majesty; and the said lord Sommers passed the same under the great seal of England; whereby all and whatsoever ships, vessels, goods, merchandizes, treasure, and other things whatsoever, which, since the 30th day of April, 1696, had been taken or seized upon or with, or did belong to, or which should be taken or seized upon or with, or did or should belong to, Thomas Soo, John Irelands, Thomas Wake, and William Maze, in the said letters-patents mentioned to have been complained of, and informed against, for committing many robberies, piracies, and depredations, upon the seas in the parts of America, and other places, but never convicted or attainted for the same; or which, since the said 30th day of April, 1696, had been taken or seized upon; or which did or should belong to any of the adherents of the said Thomas Soo, John Ireland, Thomas Wake, and William Maze, or any other pirates, freebooters, and sea-rovers, by the said William Kidd, or other commander of the Adventure-gally; or which by, or by means of the said ship or gally, should be taken, or forced on shore, in any of his majesty's plantations of America; were granted unto the said Richard earl of Bellamont, and unto Edmund Harrison, merchant, Samuel Newton, gent. William Rowley, gent. George Watson, gent. and Thomas Reynolds, of St. Martin's, * * *, their executors, administrators, and assigns, to their own sole use and benefit, and as their own proper goods and chattels, without any account thereof or therefore to be made; in which Grant, the name of the said Samuel Newton was used in trust, and for the only benefit and advantage of the said lord Sommers: Which said Grant, under the great seal of England, manifestly tended to the destruction and discouragement of trade and navigation, the great loss and prejudice of merchants and others, being his majesty's subjects, or subjects of the friends and allies of his majesty, and the dishonour of

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the king and kingdom; and the said lord Sommers was, by procuring and passing the said Grant, guilty of a notorious breach of his duty.

"XIV. That the said John lord Sommers, to the great oppression of the subject, and contrary to Magna Charta, and divers good statutes of this realm, and in manifest breach and violation of his oath as lord high chancellor of England, hath, in several causes depending before him, by many extraordinary methods, and unwarrantable practices, for several years, delayed proceedings in the said causes; and, by colour of his office, hath made divers arbitrary and illegal orders, in subversion of the laws and statutes of this realm; and hath, of his own authority, reversed judgments given in the court of exchequer, and without calling before him the barons of the Exchequer to hear their informations, and the causes of their judgments, as the statute, in those cases, expressly directs; assuming thereby to himself an arbitrary and illegal power: And hath declared and affirmed, in public places of judicature, That particular subjects might have rights and interests, without any remedy for recovery of the same, unless by petition to the person of the king only; or to that effect: Which position was highly dangerous to the legal constitution of this kingdom, and absolutely destructive to the property of the subject.

"And the said knights, citizens, and burgesses, by protestation, saving to themselves the liberty of exhibiting, at any time hereafter, any further articles, or other accusation or impeachment, against the said lord Sommers; and also of replying to his answers, which he shall make unto the said articles, or any of them; and of offering proofs to all and every the aforesaid articles, and to all and every other articles, impeachment, or accusation, which shall be exhibited by them, as the cause shall, according to the course of parliament, require; do pray, That the said John lord Sommers may be put to answer the said crimes and misdemeanors; and that such proceedings, examinations, trials, and judgments, may be thereupon had and given, as is agreeable to law and justice."

Lord Sommers's Answer to the Articles of Impeachment.] May 24. The lord Sommers delivered his Answer to the Articles of Impeachment of the house of commons against him. Which was read, by the clerk, as follows;

"The ANSWER of JOHN LORD SOMMERS, baron of Evesham, to the Articles exhibited, by the knights, citizens, and burgesses, in parliament assembled, in the name of themselves and of all the commons of England, in maintenance of their Impeachment against him, for high crimes and misdemeanors supposed to be by him committed.

"The said Lord Sommers, saving to himself all advantages of exception to the said Articles, and of not being prejudiced by any words or want of form in this his Answer; and also saving to himself all rights and privileges belonging to him as one of the peers of this realm; for Answer to the said Articles, humbly saith:

"I. To the first Article, That he believes the now emperor of Germany and the States General of the United Provinces being, in the year 1689, engaged in a war with France, a Treaty and alliance was concluded between them, and a separate article then made, to the effect in this Article mentioned; and that his sacred majesty did afterwards enter into, ratify, and approve the same; to which Treaty, separate articles, and ratification, (for more certainty thereof) he referreth himself. And further saith, That, in the year 1698, his majesty, before he left England, was pleased to tell him, "That some intimation had been given to the earl of Portland, when in France, that the French king inclined to come to an agreement with his majesty concerning the Succession to the crown of Spain:" And afterwards, in August 1698, (his majesty being then in Holland, and the said lord Sommers at Tunbridge Wells, by his majesty's permission, for recovery of his health), Mr. Secretary Vernon communicated to him a letter he had then received, written by the earl of Portland, by his majesty's order, wherein it was mentioned, "That count Tallard (who was then ambassador from the French king to his majesty) had declared an accommodation might be found out, in relation to the Succession of Spain, in case of that king's death; and that his majesty had sounded France, upon what terms an agreement might be made; and the conditions were near of this nature, (videlicet,) That the electoral prince of Bavaria should have the kingdoms of Spain, the Indies, the Low-Countries, and all that depends upon the Spanish dominions (except the kingdom of Naples and Sicily, Sardinia, the province of Guipuscoa on this side of the Pyreneans, Fontarabia, and St. Sebastian, Finall, and the places in Tuscany of which Spain then stood possessed); in consideration of which, France was absolutely to renounce the right it pretended to the Succession of Spain, and Milan was to be given to the archduke, second son to the emperor;" and that his majesty commanded the said Mr. Secretary to speak to him the said lord Sommers touching that matter; and that his lordship should discourse it with those he thought he might trust with that secret; which to keep with the utmost care, was, by the said letter, mentioned to be of the highest importance. And, at the same time, the said lord Sommers received a letter from his majesty, signed by himself, intimating that count Tallard had made some propositions, touching an agreement with his majesty, concerning the Succession of the kingdom of Spain; the which the said earl of Portland would write to Mr. Secretary Vernon, to the end his majesty might have some opinions upon that affair, which required the greatest secrecy, and in which no time was to be lost if that negotiation were to be carried on; And for that end, his majesty thereby commanded the said lord Sommers to send full powers to

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him, under the great seal of England, with blanks for the names of commissioners to treat with count Tallard, which his majesty, by his said letter, was pleased to say, "He believed might be done secretly; that none but the lord Sommers and Mr. Secretary Vernon, and those to whom the said lord Sommers and Mr. Secretary should communicate it, might have knowledge thereof; and that the clerks who were to write the full powers might not know what they were," or to the like effect. And the said lord Sommers did immediately return the earl of Portland's said letter to Mr. Secretary Vernon, and desired him to communicate the contents thereof to the earl of Orford and the now lord Halifax (two of the then lords justices, who, as he was assured, were then in town), and also to such others as they and Mr. Secretary Vernon should think fit; who, in regard of the king's command to have that affair kept a secret, thought fit to impart it to the duke of Shrewsbury only (as the said Mr. Secretary afterwards acquainted the said lord Sommers); and some time afterwards the said lord Halifax came down to the said Wells, and Mr. Secretary Vernon coming thither also about the same time, they and the said lord Sommers had discourse together, concerning the said proposal. And the said lord Sommers, by letter dated 28th August, 1698, did (as his own thoughts, and as what he apprehended to be the result of their consideration) humbly represent to his majesty, 1st, That the entertaining of such a proposal as was mentioned by count Tallard seemed to be attended with very many ill consequences, if the French did not act a sincere part; but that they were soon at ease as to any apprehension of that sort, being fully assured, his majesty would not act but with the utmost niceness, in an affair wherein his glory and the safety of Europe was so highly concerned: That the 2nd thing they considered, was the very ill prospect of what was like to happen upon the death of the king of Spain, in case nothing was done previously towards the providing against that accident, which seemed probably to be very near, the king of France then having so great a force in such a readiness, that he was in a condition to take possession of Spain before any other prince could be ready to make a stand: That his majesty was the best judge whether that was the case, who was so perfectly informed of the circumstances of all parts abroad; but so far as related to England, it would be want of duty, not to give his majesty this clear account, That there was a deadness and want of spirit in the nation universally, so as not at all to be disposed to the thoughts of entering into a new war; and that they seemed to be tired out with taxes, to a degree beyond what was discerned, until it appeared upon the occasion of the then late elections: That that was the truth of the fact, upon which his majesty would determine what resolutions were proper to be taken. The remaining consideration was, what would be the condition of Europe if the proposal took place? But of that they thought themselves little capable of judging; but it seemed, that, if Sicily was in the French hands, they would be entirely masters of the Levant trade; that, if they were possessed of Finall, and those other sea ports on that side (whereby Milan would be intirely shut out from relief by sea or any commerce), that dutchy would be of little signification in the hands of any prince; and that, if the king of France had possession of that part of Guypuscoa which is mentioned in the proposal, besides the ports he would have in the ocean, it did seem he would have as easy a way of invading Spain on that side as he then had on the side of Catalonia: but it was not to be hoped that France should quit its pretensions to so great a Succession, without considerable advantages; and they were assured, his majesty would reduce the terms as low as could be done, and make them, as far as was possible in the then present circumstances of things, such as might be some foundation for the future quiet of Christendom, which all his majesty's subjects could not but be convinced was his true aim; and, if it could be brought to pass, that England might be some way a gainer by that transaction, whether it was by the elector of Bavaria, who was the gainer by his majesty's interposition in that Treaty, his coming to an agreement to let the English into some trade to the Spanish plantations, or in any other manner, it would wonderfully endear his majesty to his English subjects. —That it did not appear, in case the negotiation should proceed, what was to be done on his majesty's part, in order to make it take place; whether any more was required, than that the English and Dutch should sit still, and France itself was to see it executed; and, if that were so, what security ought to be expected; that if, by their being neuters, the French should be successful, they would confine themselves to the terms of the Treaty, and not attempt to make further advantages of their success? And the said lord Sommers saith, That, after the writing of his said letter, he had no account whatsoever, nor heard any thing, of the said Treaty, or knew or heard, whether the same was proceeded upon, or not, until towards the latter end of Sept. following, when he was acquainted by Mr. Secretary Vernon, that he had received an account, that a Treaty relating to the Succession of the crown of Spain, had been adjusted, concluded, and signed, by the commissioners named by his majesty for that purpose, and the ambassador and plenipotentiary of the French king: and the said lord Sommers doth deny, that the said Treaty of Partition, or any proposition for such Treaty, or the transaction thereof, was communicated to him the said lord Sommers; nor was he acquainted with the same, or the design thereof, or any other matter relating thereto, at any other time, or in any other manner, before he was told of the concluding and signing thereof, as aforesaid, than as is herein before-mentioned to be done by his majesty, as aforesaid, and

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by his and the said earl of Portland's letter herein before-mentioned: and the said lord Sommers doth deny he did, at any time whatsoever, advise his majesty to enter into the said Treaty, or any-way encourage or promote the same; but, having made the objections before mentioned, in his said letter to his majesty, against the propositions so communicated to him as aforesaid, and clearly laid open such thoughts and observations as occurred to him upon the said matter, he did thereby, as he conceived, fully and faithfully discharge his trust, and the duty incumbent on him: and the said lord Sommers further saith, That afterwards Mr. Secretary Vernon did acquaint him, that he had received, by his majesty's command, a copy of the Treaty relating to the Succession of the crown of Spain, and of two secret Articles relating to the matter of that Treaty; and that he had likewise his majesty's command to prepare the instruments for the ratification of the same, and to leave blanks therein for the names of the commissioners of the States-General; and accordingly the said Mr. Secretary did prepare the said several instruments, and did bring the same, so prepared, to the said lord Sommers, to pass the same under the great seal; which was done accordingly, the said lord Sommers having a good and lawful warrant so to do; and the said ratification was transmitted to his majesty, to have the same perfected in his presence: which Treaty, and secret Articles, were to such or the like effect as in this Article is set forth; but, for more certainty, he refers himself to the said Treaty and Articles.—And the said lord Sommers, not being privy, in any other manner than as aforesaid, to the said Treaty, or the transaction thereof, doth not know when, or in what manner, the same was communicated to the States General.

"II. & III. To the 2nd and 3rd Articles, the said lord Sommers saith, That he having received his majesty's express commands, by his letter mentioned in his answer to the 1st Article, to send to his majesty full powers, under the great seal of England, for negotiating the said Treaty, with blanks for his majesty's commissioners names; which, he humbly conceives, and is advised, was a sufficient warrant for him to pass a commission under the great seal for that purpose; and the same being prepared in usual form of commissions of full powers, with blanks for commissioners names, according to his majesty's direction, he did affix the great seal to the same; and the said commission was sent to his majesty, then in Holland, to be perfected in his presence, by inserting the names of such persons as his majesty should think fit to commissionate therein, as, he conceives, might legally be done; which commissioners were to receive their instructions from his majesty for the execution of their said power, together with the said commission, in usual manner: but what instructions, or whether any instructions, in writing, were given to the commissioners, in relation to the executing the said power, the same noways concerning the lord Sommers, he knows not: and the said lord Sommers saith, he did desire his majesty, that a particular warrant for the said commission, which had been before sent by Mr. Secretary Vernon to his majesty, as he informed the said lord Sommers, for his signing, might be signed, and returned; not that he doubted his majesty's said letter to be a sufficient warrant, but for that such warrant might be more proper to be produced, if occasion should require, than his majesty's said letter; which, by reason of other matters therein contained, ought not to be produced without his majesty's permission, and which is now made use of by his majesty's gracious leave: and the said lord Sommers further saith, That his majesty having, by his own and the earl of Portland's letter before mentioned, directed, that his majesty's said commands should be kept secret, he did not communicate the making of the said commission, otherwise than to the persons mentioned in his answer to the said 1st Article.

"IV. To the 4th Article, he saith, That Mr. Secretary Vernon having prepared, by his majesty's command, the instruments for ratification of the said Treaty, with blanks therein, as is before set forth, he did affix the great seal to the said ratification with such blanks; which, he conceives, and is advised, he might lawfully do: and, having also his majesty's command, that the said Treaty should be kept secret, he did not communicate the same to the rest of the then Lords' Justices, or his majesty's Privy Council; which, besides, he conceived, was unnecessary to be done, in regard his majesty had then, by his commissioners, perfected the said Treaty; so that the same could not be altered.

"V. To the 5th Article, the said lord Sommers saith, He believes, that, in the year 1699, another Treaty was entered into, and concluded, between his majesty, the States General, and the French king, to such or such-like effect as in this Article is mentioned, to which Treaty, for more certainty thereof, he referreth himself: and denieth, that he had any knowledge of such Treaty, or any transaction in order thereunto; save only that a draught of the said Treaty was read over in the presence of divers of the lords of his majesty's privy-council, whereof the said lord Sommers, as well as others then present, did make several objections; but they were informed by his majesty's plenipotentiaries for transacting the said Treaty, who were then also present, That the said Treaty was so far perfected, that nothing could then be altered therein; and his majesty afterwards, by his warrant, requiring the ratifying of the said Treaty under the great seal, he did affix the great seal to such ratification, being, as he conceives, obliged so to do.

"VI. To the 6th Article, he saith, He conceives it was not incumbent upon him, as Lord Chancellor, to see the commissions or ratifications, in this Article mentioned, inrolled; the

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same being prepared, and brought to the great seal, by the secretaries of state, ready ingrossed; and, when sealed, taken away by them, and the original Treaties remaining in their custody; but the care of inrolling the same, if necessary, doth, as he conceives, belong to the prothonotary of the court of chancery.

"VII. To the 7th Article, he saith, That, when the great seal was committed to his custody, he took the oath of office to the effect in that Article set forth; and, during the time he had the custody thereof, he did carefully, diligently, and honestly, endeavour to keep the said oath; and hopes and believes he hath duly observed the same; and doth acknowledge, That, during the time he was Lord Keeper and Lord Chancellor, he did pass several grants to divers persons of several lands, tenements, and hereditaments, belonging to his majesty in right of his crown of England; but saith, That, before any of them came to the great seal, the same were regularly passed through the proper offices, and brought, with sufficient warrants, for the great seal; and believes more considerable grants have passed, in the like number of years, in most of his predecessors times; and conceives, and is advised, that, being required by his majesty, by proper warrants, to pass the same, he ought so to do: and denies, That he did ever advise, promote, or procure, any grant to be made to any person whatsoever, of any forfeited estate in Ireland, or did procure any act or bill prepared for confirming any such grant in the parliament in Ireland, to be approved in the Privy Council in England: and saith, That, what bills of this nature were remitted under the great seal of England, to be passed into laws in Ireland, the same were first approved, and passed, in the Privy Council in England, according to the usual form in such cases; and, being so approved, were, by order of council, sent to the said lord Sommers; who was, by the said order, required to affix the great seal thereto.

"VIII. To the 8th, he saith, he did, during the time he had the custody of the Great Seal, receive the profits and perquisites thereto belonging, which, before his time, were become very inconsiderable; and did also receive an annual pension or allowance from his majesty of 4000*l.* being the like pension that had been allowed to several of his predecessors: but denies, that he did ever beg, or use any means to procure, any grant whatsoever from his majesty, for his own benefit: but saith, that what his majesty was pleased to give him proceeded from his majesty's own motion, and of his mere bounty, and as his majesty was pleased to declare upon that occasion, as an evidence of his gracious acceptation of the said lord Sommers's zealous endeavours for his service; and the same was done without any previous solicitation by him the said lord Sommers, or any other to his knowledge or belief; and that, in the year 1697, his majesty, of his own motion, did grant for the benefit of the said lord Sommers, the manor or manors of Rygate and Howley, as in the said article is mentioned; but the same was, and is, far short of the value thereby suggested: and the said lord Sommers further saith, he never pretended to purchase, in his own name, or in the name or names of any other person or persons in trust for him, any of the fee-farm rents, or other rents, vested in trustees for sale; but his majesty taking notice, that several of the said fee-farm rents, and other rents, so vested in trustees, were unsold; and the said trustees being, by the acts of parliament vesting in them the said rents, declared to hold the same for the benefit of his majesty, his heirs and successors; his majesty did, in the year 1697, of his own motion, without any solicitation, procurement, or means, used by the said lord Sommers, acquaint the then Lords Commissioners of the Treasury, or some or one of them, that it was his majesty's pleasure, that 2,100*l.* per annum of those rents should be granted to, or for the benefit of, the said lord Sommers, and his heirs; and that all proper methods should be used for vesting the same for his benefit, as of his majesty's free gift; and the said acts of parliament having directed, that the said trustees on sales should convey the said rents pursuant to contracts to be signed by the Lord Treasurer, or Lords Commissioners of the Treasury, for the time being, or any two of them, for the satisfaction of the said trustees only; and according to the method that had been used, from the time of making the said acts, in passing grants of any of the said rents, even such as were merely of the bounty of his majesty's predecessors, and of his majesty: such warrants were made by his majesty to the Lords Commissioners of the Treasury to contract, or give warrants to the trustees to contract, for the said rents: and such contracts were pursuant thereunto made; and such grants of the said rents were passed, as in the said article is mentioned; and the money, mentioned in such contracts, was, for the perfecting of his majesty's said intended free gift, discharged by tallies struck for that purpose: and the said lord Sommers saith, the said contracts were not intended or designed to make the grantees of the said rents appear to be purchasers; but the said lord Sommers always acknowledged he received the said grants of his majesty's bounty; and, he humbly conceives, it was lawful for him so to accept the same.

"IX & X. To the ninth and tenth articles the said lord Sommers saith, that, after his majesty had given such direction to the lords of the treasury for granting fee-farm rents, and other rents, to the yearly value aforesaid, for the benefit of the said lord Sommers, and his heirs, and after warrants were signed by the lords of the Treasury to the said trustees, for making contracts for conveying rents of the said yearly value, for the benefit of the said lord Sommers, it did appear, that the said intended contracts and grants could not be perfected; for that neither the Lords of the Treasury, nor the said trustees, were sufficiently informed what fee-

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farm rents, or other rents, remained undisposed of; so that the whole benefit of his majesty's intended bounty would have been lost, without information could be granted of such particular rents: and the said lord Sommers being informed, that Reginald Marriott, and John Digby, in this article named, were the most likely, if not the only, persons capable to give information therein, application was made to them for that purpose; and the said Marriott and Digby, being so applied to after the said warrants of his majesty, and the said lords of the treasury, were executed, as aforesaid, did refuse to give any account of such rents, unless they might have, as a reward for their so doing, rents amounting to near a fourth part of such rents, whereof they should give such account, conveyed in trust for them, in such manner as in the said article is mentioned; which the said lord Sommers did, as, he conceives, he lawfully might, it being only to his own loss and prejudice, comply with; not in order to any such end as is suggested in the said article, but that he might perfect the grant before designed and appointed to be made to him by his majesty of his own free will, and not at the said lord Sommers's solicitation; the discovery of any of the said rents not being made by the said Marriot and Digby, or any other person, till after the said warrants of his majesty, and the lords of the treasury, as aforesaid; and accordingly the several grants, in this article mentioned, were made to Hancock and Warner, in trust for the said Marriott and Digby, as was affirmed to the said lord Sommers: and the said lord Sommers saith, there was not any sum of money paid as the consideration of the grants of the said rents; but the contracts were made, and the payment of the several considerations thereof were discharged, in the manner and for the reasons, herein before set forth; and were not colourably or fraudulently contrived, in deceit of his majesty, or elusion of the said acts of parliament.

"XI. To the eleventh article the said lord Sommers saith, he believeth, that several of the rents, mentioned to be granted in trust for him, as aforesaid, had been before granted to other persons by the said trustees; and that others of them were not in the power of the said trustees to grant; which was, and is, very much to his prejudice: and believes the same were inserted by mistaken informations given touching the same, and not out of any design; and the like mistakes have frequently happened in other grants of other of the said rents: and denies, that to his knowledge or belief, any of the said rents, so granted for his benefit, were ever united or annexed to the castle of Windsor for any purpose whatsoever, or that any oppression or vexation hath happened to any of his majesty's subjects, by reason of the granting of any of the said rents, and as he believes, little or no new charge to the crown.

"XII. To the twelfth article the said lord Sommers saith, that, his majesty having designed, of his bounty to him the said lord Sommers, and his heirs, fee-farm and other rents, to the annual value in the said grants mentioned; and the said trustees having covenanted, as was usual for them to do, that they had not made any former or other grant or conveyance of the said rents, or any of them; and 347*l.* 11*s.* 3¼*d.* per annum of the said rents, so granted as aforesaid, having appeared to be granted before, or not to be grantable, by the said trustees, or not leviable on surrender of such rents; the said trustees, by warrant of the lords commissioners of his majesty's treasury, who were thereunto sufficiently authorized, in lieu and satisfaction of the said rents, and arrears thereof, and in discharge of the covenants of the said trustees, did, the 21st day of October 1699, grant divers other rents, amounting to the yearly value of 391*l.* 0*s.* 3½*d.* to Richard Adney, and his heirs, as in the said article is mentioned, which were not so granted, as if the said yearly rents of 347*l.* 11*s.* 3¼*d.* had been, *bona fide*, purchased, but was in lieu and reprize for the same as granted of his majesty's bounty, for the benefit of the said lord Sommers, and his heirs, as aforesaid; which, he conceives, might be, and was, lawfully done.

"XIII. To the Thirteenth Article the said lord Sommers saith, He doth admit, that, in the year 1695, he then being Lord Keeper of the Great Seal of England, his majesty, being informed, as the truth was, that Thomas Too, John Ireland, Thomas Wake, and William Maze, and several other of his majesty's subjects in his plantations of America, had associated themselves, and did frequently commit great piracies, robberies, and depredations, on the seas in the parts of America, and other parts, to the hindrance and discouragement of trade and navigation for preventing the said mischiefs, did grant a commission, as in this article is mentioned, unto William Kidd in this article named, (who was the commander of the ship called the Adventure-Gally, and was not then, to the knowledge or belief of the said lord Sommers, esteemed a person of ill fame or reputation), to apprehend, seize, and take into his custody, the said Thomas Too, John Ireland, Thomas Wake, and William Maze, and all such other pirates as he should meet with, in the seas of America, or any other seas, with their ships and vessels, and such merchandizes, monies, and wares, as should be found on board or with them and to cause such pirates to be brought to a legal trial; the granting of which commission was then apprehended to be necessary for the preservation of trade and navigation: And the said lord Sommers doth also admit, that a grant, dated the 27th of May 1697, did pass under the Great Seal of England, as in this article is mentioned; whereby, reciting the said commission so granted to the said William Kidd, and that the said Adventure Galley was, with his majesty's knowledge and royal encouragement, bought and fitted out to sea for the execution of the said commission, at the charge of the earl of Bellamont, Edmund

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Harrison, Samuel Newton, William Rowley, George Watson, and Thomas Reynolds in this article named, His majesty for encouraging and rewarding the said undertaking, did grant unto the said earl of Bellamont, Edmund Harrison, William Rowley, George Watson, Tho. Reynolds, and Samuel Newton (who was named by and in trust for the said lord Sommers), their executors and administrators, all and whatsoever ships, vessels, goods, merchandizes, treasure, and other things whatsoever, which since the 30th of April 1696, had been taken or seized upon or with, or did belong to, or should happen to be taken or seized upon or with, or which did or should belong to, the said Tho. Too, John Ireland, Tho. Wake, and W. Maze, or their adherents, or any other pirates, by the said W. Kidd, or other commanders of the said Adventure Galley, or which by or by means of the said ship or galley should be taken, or forced on-shore, on any of his majesty's plantations in America, so far as the said premises, or any of them, did, should, or might, belong to his majesty, or could or might be granted or grantable by him, or was or were in his power to dispose of: Which grant was not intended to be without an accompt; for the said lord Sommers saith, That, by indenture, bearing date the 22d of May 1697, made (after the warrant for the said grant was signed, and before it was past) between his majesty of the one part, and the said earl of Bellamont, Edm. Harrison, W. Rowley, George Watson, Tho. Reynolds, and Samuel Newton, of the other part; they the said earl of Bellamont, &c. did covenant, promise and agree, with his majesty, his heirs and successors, well and truly to account for, and deliver upon oath, to the use of his majesty, his heirs and successors, or the commissioners of his or their Treasury, or his or their High Treasurer, a clear tenth part, the whole in ten equal parts to be divided, of all and every such ships, vessels, goods, merchandizes, and other things whatsoever, which in and by the said Grant should be given, or which should from time to time be taken, or seized, or secured, by them, or any of them, their or any of their executors or administrators, officers, agents, servants, or assigns, by virtue or colour thereof; to which grant and indenture the said lord Sommers for more certainty referreth himself. And further saith, He conceives, and is advised that the said Grant did not any way tend to the obstruction or discouragement of trade or navigation, or to the loss or prejudice of merchants, or others his majesty's subjects, or the subjects of his friends or allies, nor to the dishonour of his majesty or the kingdom; nor was the passing of the same any breach of the duty of the said lord Sommers: but the said grant was formed as a recompence to the said Grantees, who, at their own charge, had provided and fitted out the said ship, to enable the said W. Kidd to execute the powers in the said commission mentioned, whereby the public might have received great benefit, had the said W. Kidd faithfully discharged the trust in him reposed by his majesty and the said grantees; which he failing to do, the owners of the said ship have lost their expences, and have not received any benefit of his majesty's said grant.

"XIV. To the fourteenth article; the said lord Sommers saith, He did not delay any proceedings, in any cause or causes depending before him as Chancellor of England, longer or otherwise than as the circumstances and justice of each cause required; but did, to the very manifest impairing of his health, constantly apply himself to the dispatch of the causes depending before him; and denies that he did ever make, by colour of his office, any arbitrary or illegal order, to the subversion of any law or statute of this realm; or did ever assume to himself any arbitrary or illegal power, or ever reverse any judgment given in the court of exchequer, otherwise than as is warranted and allowed by the law, and in the presence of the barons of the court of exchequer, who were always present in the court of exchequer chamber when their judgments were examined, as the statute in such cases directs; nor did ever deliver, in any court of judicature, or other place whatsoever, any position whatsoever, dangerous to the legal constitution of the kingdom, or destructive to the property of the subject, as is charged by the said article.

"And as to all other matters and things in the said articles contained, and not hereinbefore particularly answered unto; the said lord Sommers saith, he is not guilty of them, or any of them, in manner and form as the same are charged upon him in and by the said articles; and humbly submitteth himself to your lordships judgment. SOMMERS."

Second Message from the Lords.] A copy of the lord Sommers's Answer was with great dispatch delivered to the Commons on May the 24th. In the mean time, on the 21st, the lords had sent down this second Message:

"Mr. Speaker, the lords command us to acquaint this house, that their lordships having been desired by the earl of Orford, that a day might be appointed for his speedy Trial, their lordships finding no issue joined by Replication of this house, think fit to give notice thereof to this house: They also commanded us to acquaint this house, that they having, on the 1st of April last, sent up an Impeachment to their lordships, against Wm. earl of Portland, for high Crimes and Misdemeanors; and having also, on the 15th of the same month, impeached Charles lord Hallifax, for high Crimes and Misdemeanors; and there being as yet no particular Articles exhibited against the said lords, their lordships think themselves obliged to put this house in mind thereof; which, after Impeachments have so long depended, is not agreeable to the usual methods and proceedings of parliaments in such cases."

Replication of the Commons to the Earl of Orford.] The Commons then prepared this Replication to the earl of Orford's Answer:

"The Commons have considered the Answer

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of Edward earl of Orford, to the Articles of Impeachment exhibited against him by the knights, &c. and do aver their Charge of high Crimes and Misdemeanors against him to be true, and that the said earl is guilty in such manner as he stands accused and impeached; and that the Commons will be ready to prove their Charge against him, at such convenient time as shall be appointed for that purpose."

Their Answer to the Lords.] May 31. They sent this Answer to the lords:

"In answer to your lordships Message of the 21st inst. the Commons have prepared a Replication to the earl of Orford's Answer to the Articles of Impeachment exhibited against him; and at present defer bringing it up to your lordships, because, in the Trial of the several Impeachments now depending, the commons think it most proper, from the nature of the Evidence that will be given at the said Trials, to begin with the Trial of the Impeachment of John lord Sommers.—And as to your lordships other Message, the Commons take it to be without precedent and unparliamentary: they, as Prosecutors, having a liberty to exhibit their Articles of Impeachment in due time, of which they, who are to prepare them, are the proper judges; and therefore, for your lordships to assert, that having not yet exhibited particular Articles against Wm. earl of Portland, and Charles lord Hallifax, is a hardship to them, and not agreeable to the usual methods and proceedings in parliament in such cases; does, as they conceive, tend to the breach of that good correspondence betwixt the two houses, which ought to be mutually preserved."

Third Message from the Lords.] On the same day, sir John Heskyns, and sir Robert Legard, brought this Message to the commons:

"Mr. Speaker, the lords have commanded us to acquaint this house, that their lordships have appointed Monday the 9th day of June next, for the Trial of Edward earl of Orford, upon the Articles brought up against him by this house in Westminster-hall; and that this house may reply, if they think fit.—They have also commanded us to acquaint this house, that this house having, on the 1st day of April last, sent up to their lordships an Impeachment against Wm. earl of Portland, for high Crimes and Misdemeanors; and having also, on the 15th of the same month, impeached Charles lord Hallifax for high Crimes and Misdemeanors; and there being as yet no particular Articles exhibited against the said lords, their lordships think themselves obliged to put this house in mind thereof; which, after Impeachments have so long depended, is a hardship to the persons concerned, and not agreeable to the usual methods of parliament in such cases."

Answer of the Commons.] June 5. The commons returned this Answer:

"The Commons, on consideration of your lordships Message to them of the 31st of May, concerning the earl of Orford, think it their undoubted right, when several persons stand impeached before your lordships, to bring to Trial such of them in the first place, as the commons apprehend, from the nature of the Evidence, ought first to be proceeded against, to the intent all such offenders may in due time be brought to justice; and that no day ought to be appointed by your lordships for the Trial of any Impeachment by the commons, without some previous signification to your lordships from the commons, of their being ready to proceed thereon.—The commons could not receive this Message from your lordships, without the greatest surprize; your lordships proceedings in this case, being neither warranted by proceedings, nor (as the commons conceive) consistent with the methods of justice, or with reason: wherefore the commons cannot agree to the day appointed by your lordships, for the Trial of the earl of Orford.—As to your lordships Message at the same time, relating to the earl of Portland, and Charles lord Hallifax, the commons take the same to be without precedent, and unparliamentary; and conceive your lordships frequent repetition thereof, in a short time, after the commons had transmitted to your lordships their Articles against two of the impeached lords, and were daily preparing their Articles against the others, manifestly tends to the delay of justice in obstructing the Trials of the impeached lords, by introducing disputes, in breach of that good correspondence between the two houses, which ought inviolably to be preserved."

Fourth Message from the Lords.] In the mean time, the lords, on the 4th, sent them another Message to this purport:

"Mr. Speaker; The lords do think fit, upon occasion of the Message from this house of the 21st of May, to acquaint this house, that having been desired by the lord Sommers, that a day may be appointed for his speedy Trial, and their lordships, finding no issue joined by Replication of the house of commons, judge it proper to give them notice thereof, that the commons may reply if they think fit. And at the same time, their lordships let the commons know, that they will proceed to the Trial of any of the Impeached Lords whom the commons shall be first ready to begin with, so as there may be no occasion taken from thence, for any unreasonable delay in the prosecution of any of them: and further to acquaint them, having searched their own Journals, they do not find, that, after a general Impeachment, there has ever been so long a delay of bringing up the particular Articles of Impeachment, sitting the parliament: and therefore the lords do think, they had reason to assert, that it was a hardship to the two lords concerned (especially when their lordships had put the house of commons in mind of exhibiting such Articles) and not agreeable to the usual proceedings in parliament. And as the lords do not controvert what right the commons may have, of impeaching in general terms, if they please; so the lords, in whom the judicature does entirely reside, think themselves obliged to assert, that the right of limiting a convenient time for bringing the particular Charge before them, for

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the avoiding delay in justice, is lodged in them.—The lords hope, the commons, on their part, will be as careful not to do any thing, that may tend to the interruption of the good correspondence between the two houses, as the lords shall ever be on their part; and the best way to preserve that, is, for neither of the two houses to exceed those limits, which the law and custom of parliament have already established."

Conference between the two Houses.] June 6. The Commons hereupon, desired a Conference with the lords, upon the subject-matter of the said Message; at which Mr. Harcourt delivered himself in this manner:—"The commons have desired this Conference, upon your lordships Message of the 4th of June, in order to preserve a good correspondence with your lordships, which will always be the endeavour of the commons, and is at this time particularly necessary, in order to bring the impeached lords to a speedy Trial. And because the Messages which your lordships have thought fit to send to the commons, and the Answers thereunto, seem not to tend towards expediting the Trials, which the commons so much desire, but may rather furnish matter of dispute between the two houses; the commons therefore chuse to follow the methods formerly used with good success upon the like occasion; and for the more speedy and easy adjusting and preventing any differences which have already happened, or may arise, previous to, or upon those Trials, the commons do propose to your lordships, that a Committee of both houses be nominated, to consider of the most proper ways and methods of proceeding on Impeachments, according to the usage in parliaments in such cases."

Fifth Message from the Lords.] The Conference being ended, the lords, on the 9th, sent the following Message to the commons:—"In Answer to the Message of the house of commons of the 4th inst. the lords say, by their Message sent on the 3rd, wherein they declare themselves ready to proceed to the Trial of any of the impeached lords, whom the commons shall be first ready to begin with; they have given a full proof of their willingness to comply with the commons, in any thing which may appear reasonable, in order to the speedy determining of the Impeachments now depending; and therefore, as the lords conceive, the commons had no occasion to begin the dispute on that head, so their lordships decline entering into a controversy, which seems to them to be of no use at present.—The lords think themselves obliged to assert their undoubted right, to appoint a day for the Trial of any Impeachment depending before them, if they see good cause for it, without any previous signification from the commons of their being ready to proceed; which right is warranted by many precedents, as well as consonant to justice and reason. And their lordships, according to the example of their ancestors, will always use that right, with a regard to the equal and impartial administration of justice, and with a due care to prevent unreasonable delays.—This being the case, the lords cannot but wonder, that the commons, without any foundation for it, should make use of expressions, which, as their lordships conceive, have never been used before by one house of parliament to another; and which, if the like were returned, must necessarily destroy all good correspondence between the two houses.—The last part of the commons Message, being in effect a repetition only of their former of the 21st of May, to which the lords already have returned a full Answer, their lordships think it not requisite to say any more, than that they cannot apprehend with what colour their calling upon the house of commons, to send up Articles against two lords, whom the commons have so long impeached in general terms, can be said to tend to the delay of justice. And therefore, as the lords think, the commons ought to have forborn that reflection, so their lordships in saying no more upon the occasion of this Message of the commons, think they have given a convincing proof of their moderation, and of their sincere desire of preserving a good correspondence between the two houses; which is so necessary for the public security, as well as doing right upon the Impeachment."

Answer of the Commons.] The Commons answered them next day to this effect: "The Commons, in hopes of avoiding all interruptions and delays, in proceeding against the impeached lords, and the many inconveniencies which might arise thereby, having proposed to your lordships, at a Conference, that a Committee of both houses might be nominated, to consider of the most proper ways and methods of proceeding on Impeachments, think, they might justly have expected your lordships compliance with their said proposition, instead of your lordships Answer to their Message of the 4th inst. which they yesterday received. In which Answer of your lordships, though many matters of great exception are contained, a suitable Reply whereunto would inevitably destroy all good correspondence between the two houses; yet the commons, from an earnest desire to preserve the same, as well as to give the most convincing proof of their moderation, and to shew their readiness to bring the impeached lords to speedy justice, at present insist only on their proposition, of both houses to settle and adjust the necessary preliminaries to the Trials; particularly, whether the impeached lords shall appear at their Trials at your lordships bar as criminals? Whether, being under accusations for the same crimes, they are to sit as judges on each other's Trials for those crimes, or can vote in their own cases, as we find by your lordships Journal, since their being impeached, they have been admitted to do? Which matters, and some others, being necessary to be adjusted, the commons cannot but insist on a Committee of both houses to be appointed for that purpose: the departing from which, would

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be giving up the rights of the commons of England, known by unquestionable precedents, and the usage of parliament, and making all Impeachments, (the greatest bulwark of the laws and liberties of England) impracticable for the future."

Another Conference.] The lords hereupon entered into a debate, Whether they should appoint a Committee, in pursuance of the commons desire; and having carried it in the negative, yet desired a present Conference with them, which was managed by the duke of Devonshire, who acquainted them: "That the lords have desired this Conference, upon occasion of the last Conference; in order to preserve a good correspondence with the house of commons, which they shall always endeavour.—As to the late Messages between the two houses, their lordships are well assured, that on their part nothing has passed, but what was agreeable to the methods of parliament, and proper to preserve that good understanding between both houses, which is necessary for the carrying on of the public business.—As to the proposal of the commons, that a Committee of both houses should be appointed, to consider of the ways and methods of proceeding on Impeachments, their lordships cannot agree to it. 1. Because they do not find that ever such a Committee was appointed, on occasion of Impeachments for Misdemeanors; and their lordships think themselves obliged to be extremely cautious in admitting any thing new in matters relating to judicature. 2. That although a Committee of this nature was agreed to upon the Impeachments of the earl of Danby, and the five Popish Lords for High Treason, yet it was upon occasion of several considerable questions and difficulties, which did then arise. And their lordships do not find that the success in that instance was such, as should encourage the pursuing the same methods again, though in the like case: the lords observing, that after much time spent at that committee, the disputes were so far from being there adjusted, that they occasioned an abrupt conclusion of a session of parliament. 3. Their lordships are of opinion, that the methods of Proceedings on Impeachments for Misdemeanors, are so well settled by the usage of parliaments, that they do not foresee any difficulties likely to happen; at least none have been yet started to them: and all the preliminaries in the Case of Stephen Gaudett, and others (which was the last instance of Impeachments for Misdemeanors) were easily settled and agreed to, without any such Committee. 4. The lords cannot but observe, that this Proposal of the commons comes so very late, that their lordships can expect no other fruit of such a Committee, but the preventing the Trials during this session.—The lords assure the commons, that, in case any difficulties shall arise in the progress of these Trials, (which their lordships do not foresee) they will be ready to comply with the commons in removing them, as far as justice, and the usage of parliament will admit."

A Free Conference.] June 11. The Commons desired a free Conference on the subject matter of the last; and at the same time, drew up an Answer to their lordships other Message, on Monday, about their appointing Friday the 13th, for the Trial of the lord Sommers; which was to this effect:—"The commons on Monday last, the 9th, received a Message from your lordships, that your lordships had appointed the Trial of John lord Sommers, upon Friday next, on their Impeachment against him; in which they observe, your lordships have not nominated any place for his Trial, though your lordships thought fit to make that matter, on the last Impeachment for a Misdemeanor, the subject of a long debate. And they cannot but take notice, that your lordships have taken as long a time, to give your Answer, to the commons desire of a Committee of both houses, delivered at a Conference on Friday last, as you are pleased to allow the commons to have, of the day appointed by your lordships for the said Trial.—Your lordships appointing so short a day, especially whilst the proposition made to your lordships for a Committee of both houses was undetermined, the commons take to be such a hardship to them, and such an indulgence to the person accused, as is not to be paralleled in any parliamentary proceedings.—The commons must likewise acquaint your lordships, that their experience of the interruption of a former Trial on an Impeachment for Misdemeanors, for want of settling the preliminaries between the two houses, obliges them to insist on a Committee of both houses, for preventing the like interruption.—And they conceive it would be very preposterous for them to enter upon the Trial of any of those lords, till your lordships discover some inclination to make the proceedings thereupon practicable; and therefore, they think they have reason to insist upon another day to be appointed, for the Trial of the lord Sommers. And the commons doubt not but to satisfy your lordships at a free Conference, of the necessity of having a Committee of both houses, before they can proceed upon the said Trial."

The King's Speech on passing the Act of Succession.] June 12. His majesty came to the house of peers, and gave the royal assent to 'an Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject:' and several other Bills: After which, he made the following Speech:

"My Lords and Gentlemen; I return you my hearty Thanks for the care you have taken to establish the Succession to the Crown in the Protestant Line: And I must not lose this occasion of acquainting you, that I am likewise extremely sensible of your repeated assurances of supporting me in such Alliances, as shall be most proper for the preservation of the liberty of Europe, and for the security of England and Holland. Your ready compliance with my desires, as to the succours for the States-General, is also a great satisfaction to me, as well as a great advantage to the common cause. And

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as I have nothing so much at heart, as the preservation of the liberty of Europe, and the honour and interest of England, so I make no doubt of attaining those great ends, by the blessing of God, and the continuance of your chearful concurrence.—My Lords and Gentlemen; The season of the year makes it necessary to have a speedy recess, and the posture of affairs abroad does absolutely require my presence, for the encouragement of our Allies, and for the perfecting of such Alliances as may be most effectual for the common interest: And therefore I must recommend a dispatch of the public business, especially of those matters which are of the greatest importance."

Address of the Commons.] The commons agreed upon this Address to his majesty:

"Most gracious sovereign, We your majesty's most dutiful and loyal subjects, the Commons in parliament assembled, do, with all imaginable chearfulness, return your majesty our most humble Thanks for your most gracious Speech from the throne, in which your majesty is pleased to express your royal approbation of the proceedings of your commons. And we do further unanimously assure your majesty, that we will be ready on all occasions to assist your majesty, in supporting such Alliances as your majesty shall think fit to make, in conjunction with the Emperor and the States-General, for the preservation of the Liberties of Europe, the prosperity and peace of England, and for reducing the exorbitant power of France."

The King's Answer.] When this Address was presented, on the 13th, the king gave this Answer:

"Gentlemen, I thank you heartily for the unanimous assurances you have given me of your readiness to assist me, in supporting such Alliances as I shall make in conjunction with the Emperor and the States-General. It will be a good encouragement to them, to find the sense of this kingdom so fully expressed on this occasion, and will likewise contribute most effectually, to the obtaining those great ends you have now mentioned, on which the happiness of Europe does so much depend."

Sixth Message from the Lords, respecting the Impeachments.] The lords on the same day the king made this Speech, had sent this Message to the commons:

"In answer to the Message from the house of commons of the 10th instant, the lords say, That although they take it to be unparliamentary in many particulars, yet to shew their real desire of avoiding disputes, and removing all pretence of delaying the Trials of the impeached lords, they will only take notice of that part of their Message, wherein the commons propose some things as difficulties in respect of the Trials; which matters relating wholly to their judicature, and to their rights and privileges, as peers, they think fit to acquaint the commons with the following Resolutions of the house of lords. 1. That no lord of parliament, impeached for high crimes and misdemeanors, and coming to his Trial, shall, upon this trial, be without the bar. 2. That no lord of parliament, impeached for high crimes and misdemeanors, can be precluded from voting on any occasion, except in his own Trial.—Their lordships further take notice of a mistake in point of fact, alledged in the Message of the commons; it no way appearing upon their Journal, that the lords impeached have voted in their own case. —The lords being well assured, that all the steps that have been taken by them in relation to these Impeachments, are warranted by the practice of their ancestors, and the usage of parliament, have reason to expect the Trials should proceed without delay.—Also, that they are commanded by the lords to acquaint this house, that, In answer to the Message of the house of commons yesterday, the lords say, that they cannot give a greater evidence of their sincere and hearty desires, of avoiding all differences with the house of commons, and of proceeding on the Trials of the Impeachments, than by not taking notice of the several just exceptions, to which that Message is liable, both as to the matter and the expressions.—The lords have nothing farther from their thoughts, than the going about to do any thing, which might have the least appearance of hardship with relation to the commons.—But the Answer of the lord Sommers to the Articles exhibited against him, having been sent down to the commons on the 24th of May last, and they having, by their Message of the 21st of May, signified to their lordships, their intention of beginning with the Trial of his Impeachment in the first place: The lords, considering how far the session is advanced, thought it reasonable to appoint the 13th instant for the said Trial, their lordships finding several precedents of appointing Trials on Impeachments within a shorter time.—The lords also think it incumbent upon them to dispatch the Trials of all the impeached lords, before the rising of the parliament. This is what justice requires, and cannot be looked upon as a matter of indulgence: Nevertheless, that the commons may see how desirous their lordships are to comply with them in any thing which may be consistent with justice, they have appointed the Trial of the Impeachment against John lord Sommers, on Tuesday the 17th of this instant June, at ten of the clock in the forenoon, in the house of lords, which will be then sitting in Westminster-Hall.—That they were commanded by the lords to acquaint this house, that the lords do agree to a free Conference with the commons, as desired; and do appoint to-morrow at one in the Painted-Chamber."

Answer of the Commons.] The Commons, on the 13th, made this Answer:

"The house of commons find greater reason to insist upon their proposal of a Committee of both houses, from the two Messages received yesterday from your lordships; for their ambiguity and uncertainty do show the methods of former parliaments to be the most proper way for dispatch of business.—The commons have been obliged to employ that time in considering

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how to answer your lordships Messages, which otherwise would have been spent in preparing for the lord Sommers's Trial; so that the delay must be charged where the occasion ariseth. And the commons, having desired a Committee of both houses, to adjust the preliminaries of the Trials, cannot but think it strange your lordships should come into Resolutions upon two of those points, while the Proposal of the house of commons is under debate, at Conferences between the two houses; the commons having other difficulties to propose, which concern them as prosecutors, and all future Impeachments.—And though the commons have the subject of your lordships Resolutions, with other things, to be debated at a committee of both houses; yet they cannot but observe, that your lordships second Resolution is no direct Answer to the commons proposal; which was, whether Peers impeached of the same crimes shall vote for each other upon their Trial for the same crimes. And the commons cannot believe, that any such rule can be laid down in plain words, where there is a due regard to justice.—And as to what your lordships observe, That there is a mistake in point of fact alledged by the commons; the house may take notice of the caution used by your lordships, in wording that part of your Message; for they know your lordships are too well acquainted with the truth of the fact to affirm that the impeached lords did not vote in their own cases; and though the appearing or not appearing upon your lordship's Journal does not make it more or less agreeable to the rules of justice, yet the commons cannot but add this further observation from your lordships Journal, That the impeached lords presence is not only recorded when those Votes passed, but they also find some of them appointed of committees, for preparing and drawing up the Messages and Answers to the house of commons; which they do not think has been the best expedient for preserving a good correspondence between the two houses, or adjusting what will be necessary upon these Trials: And therefore the commons cannot think it agreeable to the rules of parliament for them to appear at the Trial, 'till all necessary preliminaries are first settled with your lordships."

Report of the Conference, and the Offence given to the House by Lord Haversham.] Then the commons went to the Conference with the lords, and Mr. Harcourt reported the matter thereof, and the Words which the lord Haversham had spoke thereat; which he read in his place, and afterwards delivered in the said Report at the clerk's table, where the same was read, and is as followeth, viz.

"That the Managers appointed by this house met the lords at the free Conference, the subject matter whereof was opened by Mr. Harcourt, and immediately afterwards further argued by sir Bartholomew Shower.—It was insisted on by each of them, that the Reasons offered by their lordships at the last Conference were not sufficient for their lordships disagreeing to a Committee of both houses desired by the commons at the first Conference.—That, notwithstanding those Reasons, the commons still thought a Committee of both houses absolutely necessary, for adjusting and preventing such differences as had happened, or might arise previous to, or upon the Trials; and therefore insisted, that such a Committee should be appointed before the commons could proceed on any Trial.—It was urged as one Reason for such a Committee, that many difficulties might happen, whereby the Trials might be obstructed, if the preliminaries should not be first adjusted: as one instance, that point of several lords being under impeachments of the same crimes, voting on each other's Trial, was mentioned.—The Lord Steward (Duke of Devonshire,) first replied, and nothing was offered by his grace, but what was material and pertinent to the matter in question, and agreeable to the method of parliament in free Conferences. That John lord Haversham spoke immediately after; and in his lordship's discourse, used these or the like expressions:

'One thing there is, though I cannot speak 'it, because I am bound up by the orders 'of the house, yet I must have some answer; 'this is, as to the lords voting in their own 'case, it requires an Answer, though I cannot 'go into the debate of it. The commons 'themselves have made this precedent; for, in 'these Impeachments, they have allowed men 'guilty of the same crimes to vote in their own 'house: and therefore we have not made any 'distinction in our house, that some should 'vote and some not. The lords have so high 'an opinion of the justice of the house of commons, that they hope justice shall never be 'made use of as a mask for any design. And 'therefore give me leave to say, though I am 'not to argue it, it is a plain demonstration 'that the commons think these lords innocent; 'and I think the proposition is undeniable; 'for there are several lords in the same crimes, 'in the same facts there is no distinction. And 'the commons leave some of these men at the 'head of affairs, near the king's person, to do 'any mischief if they were inclined to it; and 'impeach others, when they are both alike 'guilty, and concerned in the same facts. This 'is a thing I was in hopes I should never have 'heard asserted, when the beginning of it was 'from the house of commons.'

"These expressions were instantly objected to by sir Christ. Musgrave; and the Managers took them to be so great an aspersion on the honour of this house, that they thought themselves obliged in duty immediately to withdraw from the Free Conference.—As the Managers were withdrawing, his grace my lord Steward spoke to the effect following; That he hoped they would not think that that Lord had any authority from the house of lords to use any such expression towards the commons.'

Votes thereon.] Resolved, "That John lord Haversham hath, at the Free Conference this

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day, uttered most scandalous reproaches, and false expressions, highly reflecting upon the honour and justice of the house of commons, and tending to the making a breach in the good correspondence between the lords and commons, and to the interrupting the public justice of the nation, by delaying the Proceedings on Impeachments. 2. That John lord Haversham be charged before the lords, for the Words spoken by the said lord this day at the Free Conference: and that the lords be desired to proceed in justice against the said lord Haversham, and to inflict such punishment upon the said lord, as so high an offence against the house of commons does deserve."

Ordered, That sir Christ. Musgrave do carry the said Charge and Resolutions to the lords.

A Message from the Lords.] A Message from the lords by Dr. Newton and Mr. Gery: "Mr. Speaker, The lords having been informed by their Managers, that some interruption happened at the Free Conference, which their lordships are concerned at; because they wish that nothing should interrupt the public business, do desire the commons would come again presently to the said Free Conference; which they do not doubt will prove the best expedient to prevent the inconvenience of a misunderstanding upon what has past."

Next day, the 14th, came another Message from the lords, importing,

"That upon occasion of their last Message yesterday, in order to continue a good correspondence between the two houses, their lordships did immediately appoint a Committee to state the matter of the Free-Conference, and also to inspect precedents of what has happened of the like nature; and that the public business may receive no interruption, the time desired by their lordships for renewing the Free Conference being elapsed, their lordships desire a present Free Conference in the Painted-Chamber, upon the subject-matter of the last Free-Conference."

Votes thereon.] Upon which the commons came to the following Resolution: "That an Answer be returned to the lords, that the commons are extremely desirous to preserve a good correspondence between the two houses, and expedite the Trials of the impeached lords; but do conceive it is not consistent with the honour of the commons to renew the Free Conference, until they have received reparation, by their lordships' doing justice upon John lord Haversham, for the indignity he yesterday offered to the House of commons."

Articles of Impeachment against Charles Lord Halifax.] June 14. Mr. Bruges carried up the Articles of Impeachment against Charles Lord Halifax; which were read by the Clerk as follow:

"ARTICLES exhibited by the knights, citizens, and burgesses, in parliament assembled, in maintenance of their Impeachment against Charles lord HALIFAX of High Crimes and Misdemeanors.

"Whereas several persons contrary to their duty and allegiance to his majesty and his late royal consort of ever-blessed memory, traiterously adhering to their majesties enemies, did levy and maintain, within their majesties realm of Ireland, a desperate and bloody War and Rebellion against their majesties; and were, by his majesty's conduct and courage, at the great expence of his English subjects, reduced to their due obedience to the crown of England: —And whereas, upon the 4th day of April 1690, it was resolved, by the Commons of England in parliament assembled, That a Bill should be brought in, to attaint all persons guilty of Rebellion in Ireland, or elsewhere, against their majesties king William and queen Mary, and to enact and declare their estates to be forfeited, and to be sold for the reducing of that kingdom: and whereas his majesty, in his gracious Speech to both houses of parliament, did, upon the 5th of January 1690, assure them, That he would not make any Grant of the Forfeited Lands in Ireland, till there should be another opportunity of settling that matter in parliament, in such manner as should be thought most expedient: and whereas the commons of England in parliament assembled, by their humble Address to his majesty, upon the 4th of March 1692, did humbly beseech his majesty, that, according to the assurance his majesty had been pleased to give them, no Grant might be made of the Forfeited Estates in Ireland, till there should be an opportunity of settling that matter in parliament, in such manner as should be thought most expedient; to which his majesty was pleased to give a most gracious answer; whereby, and by many other endeavours of the commons in the following sessions of parliaments, it appears that what has since been declared by act of parliament, was the continued sense of the commons of England, that it was highly reasonable, that the Forfeited Estates of rebels and traitors in Ireland should be applied in ease of his majesty's faithful subjects of the kingdom of England:—And whereas it was the apparent duty of every officer or minister of state, to have had so much regard to the Resolutions and Address of the house of commons, to the public good, and his majesty's honour, as to have dissuaded and prevented, as much as in them lay, the procuring or passing any Grant or Grants of the said Forfeited Estates in Ireland; yet Charles, now lord Halifax, then the honourable Charles Montagu, esq. being a member of the honourable house of commons, one of the lords of the treasury, chancellor of the exchequer, and one of his majesty's most honourable privy council, hath, since the aforesaid 4th of March 1692, presumed to advise, pass, or direct the passing, a Grant to Thomas Railton, esquire, in trust for himself, of several debts, interest, sum and sums of money amounting in the whole to the sum of 13,000*l.* or thereabouts, due, owing, and which ought to have accrued to his majesty, by reason of the attainders, outlawries, or other forfeitures of the respective persons for whom the same were entered on record, whereby he hath

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much contributed to the contracting great debts upon the nation, the laying heavy taxes upon the people, hath highly reflected on his majesty's honour, and failed in the performance of his trust and duty.

"II. Whereas, by an act of parliament, made in the 11th and 12th years of his majesty's reign, intituled, 'An Act for granting an aid to his majesty, by sale of the forfeited and other Estates and interests in Ireland, and by a land tax in England, for the several purposes therein mentioned;' it is, amongst other things, enacted, That all and every person or persons whatsoever, who had, by virtue of any Grant or Disposition from his majesty, or from his majesty and the late queen, received, for his or their own use or benefit, any debt or debts, or sum or sums whatsoever, due from any debt or debts of any forfeiting person, mentioned or described in the said act, or from any person or persons subject or liable to the payment of any sum or sums of money whatsoever to any of the said forfeiting persons, should be, and they are hereby declared to be respectively liable, and are required to repay every such debt or debts, sum or sums, of money whatsoever, so by him, her, or them, respectively received, into the receipt of his majesty's exchequer in Ireland, on or before the 24th of August 1700; and whereas the said Charles lord H. had before the making of the aforesaid act, procured for Thomas Railton, esq. in trust for himself, a Grant of several debts, by judgments and otherwise, to several of the said forfeiting persons, amounting to the sum of 13,000*l.* or thereabouts, forfeited to his majesty, by the attainder, outlawries, or other forfeitures, of the respective persons to whom such debts were originally due; and, by virtue of the said Grant, the said lord Halifax actually received to his own use the sum of 1,000*l.* part of the beforementioned sum of 13,000*l.* which said sum of 1,000*l.* he the said Charles lord Halifax ought to have re-paid, before the said 24th Aug. 1700, into the receipt of his majesty's exchequer in Ireland, as by the said act he was required to have done; yet the said Charles lord Halifax did not repay the said sum of 1,000*l.* as by the said act he was required to do; but has hitherto, in contempt of the act, refused or neglected to re-pay the same; which neglect or refusal of him the said Charles lord Halifax, to repay the said sum of 1,000*l.* is a manifest wrong to his majesty and the public, and a misapplication of that sum to other uses and purposes than by the act it is appropriated and ought to have been applied.

"III. That the said Charles lord H. being a member of the honourable house of commons, one of the commissioners for executing the office of lord treasurer of England, chancellor of the exchequer, and one of his majesty's most honourable privy council, not contented with the many employments and places of honour bestowed upon him by his majesty, nor with the large and excessive gains by him made by the incomes and profits arising from such offices and preferments; did, (in opposition to what he well knew to be the true interest of England, and contrary to his oath as a privy counsellor, and his duty as a public minister, at a time when the nation was engaged in a tedious and expensive war against France for preserving the balance and liberties of Europe, and under such heavy debts as, without laying unsupportable taxes on the people, were impossible to be satisfied) advise, procure, and assent, not only to the passing of divers Grants to others in England and Ireland, but did obtain and accept of several beneficial ones to or in trust for himself; which said practices of him the said lord H. were a most notorious abuse of his majesty's goodness, a great breach of his trust, and a very high vexation and oppression of his majesty's other subjects.

"IV. Whereas, by the common law and by many statutes and ordinances of this realm, it appears to have been the great care of our ancestors, that the king's Forests should be preserved, and in particular the timber therein growing, for the building and repairing the navy royal, which has ever been accounted (as it undoubtedly is) the great security of this realm; and whereas Charles lord Halifax was, in the year of our Lord 1697, one of the commissioners of the Treasury, chancellor of the Exchequer, and one of his majesty's privy council; and obliged, as well by repeated oaths, as by the duty he owed to his majesty and his country, to have advised, consulted, and promoted, such matters and things, as should or at least were most likely to redound to his majesty's honour, and the nation's safety; yet the said Charles lord H. not regarding the laws and ordinances of this realm, nor his said duty to his majesty and the public, but pursuing his private interest, did, by letters of privy seal, bearing date on or about the 6th of May, which was in the year of our Lord 1697, (the kingdom being then engaged in an expensive war, and the debts of the nation requiring the best and most frugal management) procure from his majesty a Grant to Henry Segar, gentleman, in trust for himself, of the sum of 14,000*l.* of so much scrubbed beech, birch, holly, hazle, thorns, and orle, as should by sale raise the said sum of 14,000*l.* to be fallen in his majesty's Forest of Dean, in the county of Gloucester, within the space of seven years time, from the 25th of December, 1697; under colour of which Grant, beech of a much greater value, great number of sapling oaks, which might and would have been serviceable to the realm, and also many tons of well-grown timber, fit for the present use of the navy, have been cut and fallen, and sold and disposed of for the benefit of the said lord Halifax.

"V. Whereas there is not any thing, that so much conduceth to his majesty's and the nation's honour and safety, as the due ordering and management of the king's treasure and the public revenues; for the receiving and issuing forth of which, the wisdom and policy of this nation has provided and appointed several and distinct officers, with beneficial salaries, in

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order that they may be a check to each other, and that no loss may accrue to his majesty or the public, by the corruption, unskilfulness, or negligence of any particular officer; yet he the said Charles lord H. being one of the lords of the Treasury, when, by the death of the hon. sir Robert Howard, the office of the auditor of the receipts and writer of the tallies became vacant, not regarding the ancient constitution and approved methods in ordering his majesty's Treasury and the public revenues, did grant, or procure to be granted, to Christopher Montagu, esquire, the brother of him the said Charles lord H. and then one of the commissioners of the excise, the said place and office of auditor of the receipts and writer of the tallies; which said Grant was so made and procured by the said lord H. in trust, as to the profits thereof, for himself, so that, from and after the passing of the said Grant, he the said lord H. was in effect at the same time one of the commissioners of the Treasury, chancellor of the Exchequer, and auditor of the receipts and writer of the tallies, and enjoyed the profits of the said several offices, which, by the constitution of the Treasury, are manifestly inconsistent, and never were or ought to be trusted in the same person; the making and procuring of which said Grant, by him the said Charles lord H. as aforesaid, was a manifest violation of the established course and constitution of the Exchequer, a breach of his trust, of evil example, and tended very much to the great loss and prejudice of his majesty and the public, by opening a way to all manner of corrupt practices in the future management of the revenues.

"VI. Whereas a Treaty and Alliance, between Leopold the emperor of Germany and the States General of the United Provinces, was made and concluded, in the year of our Lord 1689, upon the consideration of the greatness of the common danger which then threatened all Christendom, from the excessive power of France, and the unconstant faith of the French in the observance of treaties; whereby it was agreed, that there should be and remain for ever a constant, perpetual, and inviolable friendship and good correspondence between his Imperial majesty and the States General; that each of them should be obliged to promote the other's interest, and, as much as in them lay, prevent all damages and inconveniences to each other.—And whereas certain separate Articles were also at or about that time made, and annext to the aforesaid Treaty, whereby the States General, maturely considering that France had openly declared in several courts that, (notwithstanding the most solemn renunciation) they continued their pretension, by force of arms, to assert for the Dauphin the Succession of the Spanish monarchy, in case the king of Spain should die without issue; and also considering what a blow their state would receive, and what prejudice might happen thereby to the public affairs and quiet; did promise, that, in case his said Catholic majesty should die without issue, they would, with all their force, assist his said Imperial majesty, or his heirs, in taking the Succession of the Spanish monarchy, lawfully belonging to that house, together with its kingdoms, dominions, and rights, and in their obtaining and securing the quiet possession thereof, against the French and their adherents, who should directly or indirectly oppose that Succession, and with force repel the force which should be brought against them.—That, at the instance of the States General, in pursuance of the said Treaty and separate Articles, our most gracious lord and sovereign his most excellent majesty king William III. was invited to enter into the alliance of the aforesaid Treaty, and into the agreement of the said separate Articles; and thereupon, for restoring and preserving the public peace and quiet, did afterwards, in the said year of our Lord 1689, enter into, and, under the great seal of England, accept, approve, and ratify, and in the most solemn manner engage and promise religiously and inviolably to observe the same, without violating the said Treaty or separate Articles in any Article, or suffering the same, to the utmost of his power, to be violated.—That, in 1698, a Treaty was projected, and contrived in France to be set on foot, between his majesty, the French king, and the States General, for a Partition of the Spanish monarchy; whereby many large territories thereunto belonging, in case of the decease of the king of Spain without issue, were to be allotted and delivered up to France.—The tenor and design of which last mentioned Treaty, whilst the same was in negotiation, was communicated to the said Charles lord H. then one of the commissioners for executing the office of Lord Treasurer, Chancellor of the Exchequer, and one of his majesty's most hon. Privy Council: That the said Charles lord H. well knowing the most apparent and evil consequences, as well as the injustice of the said Partition, did not according to the trust and duty of his said several offices, dissuade or endeavour to obstruct its taking effect; but, on the contrary, having neither regard to his majesty's honour, engaged by the abovementioned Treaty with the emperor and the States General, to the trade and known interest of these kingdoms, or the peace of Europe, did advise his majesty to enter into the said Treaty; and did so far encourage and promote the same, that the said Treaty was concluded and ratified under the Great Seal of England; which said Treaty was evidently destructive of the trade of this realm, a breach of the former Treaty made with the emperor in 1689, dishonourable to his majesty, highly injurious to the interest of the Protestant Religion, and manifestly tended to disturb the general peace of Europe, by altering the Balance of Power therein, and strengthening France against the good friends and ancient allies of our sovereign lord the king.

"And the said knights, citizens, and burgesses, by protestation, saving to themselves the

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liberty of exhibiting, at any time hereafter, any further Articles, or other Accusation or Impeachment, against the said lord Halifax, and also of replying to his Answers which he shall make unto the said Articles or any of them, and of offering proofs to all and every the aforesaid Articles, and to all and every other Articles, Impeachment, or Accusation, which shall be exhibited by them, as the case shall, according to the course of parliament, require; do pray, that the said Charles lord Halifax may be put to answer the said crimes and misdemeanors; and that such proceedings, examinations, trials, and judgments, may be thereupon had and given, as is agreeable to law and justice."

Lord Halifax's Answer to the Articles of Impeachment against him.] June 16. The lord Halifax delivered his Answer to the Articles of Impeachment of the house of commons against him: viz.

"The ANSWER of Charles lord Halifax to the Articles exhibited against him, by the knights, citizens, and burgesses in parliament assembled, in maintenance of their Impeachment against the said lord Halifax, for High Crimes and Misdemeanors supposed to be committed by him.

"The said lord Halifax, saving to himself all advantages of exceptions to the said Articles, and of not being prejudiced by any words or want of form; and saving to himself all privileges and rights belonging to him as one of the peers of this realm; for answer to the said Articles humbly saith,

"I. To the First Article; he saith, True it is, that several persons did levy and maintain a desperate and bloody war and rebellion in Ireland against their majesties, and were, by his majesty's courage and conduct, at the great expence of his English subjects, suppressed and reduced to their obedience, as in this Article is alledged: And he further answereth and saith, he believes it to be true, that on the 4th of April 1690, such vote or resolve was made by the then house of commons for that purpose, and such assurance was given by his majesty, and such addresses were made by the house of commons in the year 1690 and 1692, that no Grants should be made of the Forfeited Lands in Ireland, till there should be another opportunity of settling that matter in parliament, in such manner as should be thought most expedient; and such answers were given thereunto as in this article is and are set forth, as by the said several votes, resolves, speeches, addresses, and answers, to which the said lord craves leave, for more certainty, to refer himself, may appear.—That, in 1693, 1694, and 1695, the parliament of England did meet; and no act was passed touching the Forfeited Estates, though by other ways great sums were raised for the carrying on and defraying the charges of the war in those years; and his majesty did after, as rewards to several persons who had served him in Ireland and elsewhere, grant to them some of the Forfeited Estates in Ireland; and the grantees did enjoy the same.—And the said lord H. further saith, That his majesty did never grant to him, or any in trust for him, or to his use, any of the said Forfeited Lands, but of his grace and favour; and, as a reward for his faithful services (which his majesty was pleased to accept) did, by Letters Patents under the Great Seal of Ireland, bearing date on or about the 11th May 1697, grant to Tho. Railton, esq., in trust for the said lord H. (who was then one of the commissioners of the treasury, chancellor of the exchequer, and one of the members of the house of commons, as in this Article is set forth), several debts, interests, sum or sums of money, amounting in the whole to the sum of 11,516*l.* 17*s.* 8*d.* or thereabouts: Which Grant, he conceives and is advised, his majesty might then lawfully make; and was lawful for him to accept, without breach of his duty or the trust reposed in him; and denies that he did ask for or procure the said Grant; but confesseth he accepted the same as a mark of his majesty's grace and favour: And saith, the said Grant hath since been taken away by act of parliament; and saith, that the said Grant made to Thomas Railton is the same which is mentioned or intended by the said Article of Impeachment: And although the said debts therein mentioned to be granted did amount to 11,546*l.* 17*s.* 8*d.* and no more; yet the said Grant itself, at the time of making thereof, or at any time afterwards, could not be valued at near the said sums, because a great part of the said debts were not recoverable; and he hath not made clear thereof, as yet, above 400*l.* and humbly hopes, the said Grant hath very little, if at all, contributed to the contracting any debts upon the nation, or laying heavy taxes upon the people, or any ways reflected upon his majesty's honour, or that he hath failed in the performance of his trust or duty, as in the Article is suggested.

"II. The Second Article; the said lord H. saith, that he believes it to be true, that such act was made, and such clause therein, as in this article is mentioned; and also in the said act there is a further clause, that the grantees from the king of any of the forfeited estates thereby resumed, should not be accountable for the rents, issues, and profits of the same, by them received before the 2nd of Nov. 1699; but might retain the same to their own uses.—And the said lord H. doth acknowledge, that, after the making the said Grant before mentioned to the said Tho. Railton, the agents of the said lord H. did receive some monies, not exceeding 1,000*l.* (as he is informed), out of the rents and profits of the forfeited estate of the earl of Clancarty, of which no more than the above-said sum did come clear to him the said lord H.; and no more, to his knowledge or belief, hath been received or recovered upon the aforesaid Grant: That the said lord H. gave directions, after the said act passed, to his agents in Ireland, to do, in relation to the money received, as should be advised by counsel,

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there; by whom his agents were advised (as they informed the said lord, and which he believes to be true) that the said monies, being received out of the mean profits which were remitted by that act, were not within the first mentioned clause in the said act; and therefore the said lord does believe and admit the same were not paid into the receipt of his majesty's exchequer in Ireland, nor ought to have been paid into the exchequer, as he humbly insists and is advised; and he doth deny that the non-payment of the said money into the said receipt is any wrong to his majesty or the public, or any misapplication; and in case the said money ought to have been paid into the said receipt, there are proper methods and remedies in the said act prescribed, to compel the payment of the same.

"III. To the Third Article; he saith, he was a member of the house of commons, one of the Commissioners of his majesty's treasury, chancellor of the Exchequer, and privy counsellor, as in the Article is set forth; and served his majesty faithfully, as he hopes and believes, in those stations; and was contented with the employments and places of honour bestowed upon him, and with the incomes and gains by him made by the just and lawful fees and profits of the same; and his majesty graciously accepted of such his services, and, as a mark of his royal favour to him, did make for his benefit the Grant in the answer to the precedent Article, and the Grant in the answer to the subsequent Article mentioned; which were all the profitable Grants he, or any in trust for him, ever had from his majesty: And the said lord H. says, he conceives, and is advised, that his accepting such Grants were not any abuse of his majesty's goodness, nor breach of the trust reposed in him, nor were any of his majesty's subjects thereby oppressed: and denies that he ever did, in opposition to what he knew to be the true interest of England, or contrary to his oath or duty, at any time advise, procure, or assent to, the passing of any Grant or Grants to himself, or to any person in trust for him, or to any other person or persons whatsoever: but saith, he, as one of the Commissioners of the treasury, in conjunction with the other Commissioners, did sign several warrants and dockets for such Grants as his majesty was pleased to direct to be passed by them, and which, he humbly conceives, and is advised, he was, by the duty of his place, obliged to do.

"IV. To the Fourth Article; he saith, he believes it to be true, that our ancestors did take great care to preserve the king's forests, and the timber therein growing, for the building and repairing the navy royal; which, the said lord doth own, has ever been accounted (and as he believes very rightly) the great security of the realm; and saith, true it is, he was, in the year 1697, one of the commissioners of the treasury, chancellor of the exchequer, and one of his majesty's privy council, and did from time to time advise and promote such matters and things as were most likely to redound to his majesty's honour and the nation's safety; and denies that he at any time preferred his private interest to that of the public; but doth confess and admit, that his majesty, by his letters of privy seal, dated the 6th of May 1697, did, out of his grace and favour designed to the said lord H. grant unto Henry Seager, in the article mentioned (and which was in trust for the said lord) the sum of 2,000*l.* per annum, to be raised by the fall of scrubbed beech, birch, holly, hazle, thorns, and orle, in the forest of Deane, in the county of Glouce-ter, for the space of seven years, from the 25th of Dec. 1697, as by the said letters of privy seal, to which the said lord, for more certainty referreth himself, may appear; which Grant was not, nor could be, prejudicial to any timber growing in the said forest; and believes no sapling oaks or timber, or trees likely to be timber, were cut down by colour of the said Grant; and if any abuse were in cutting the wood, he conceives he is not answerable for the same, such cutting not having been by his directions, nor he any ways concerning himself therein; the setting out and cutting whereof did belong to his majesty's surveyor general, and other his majesty's officers; who (as the said lord hath been informed and believes) faithfully discharged their trust in the execution thereof, and took particular care to preserve the timber there.

"V. To the Fifth Article; the said lord H. answereth and saith, he believes it to be true, that the due ordering and management of the king's treasure and public revenues conduceth very much to the honour and safety of his majesty and the nation; and that there are several distinct officers, with salaries, for the better receiving and issuing forth of the same, and that are cutques upon each other, to prevent any loss to his majesty or the public. And the said lord saith, true it is, he was one of the commissioners of the treasury, when, by the death of sir Robert Howard, his office of writer of the tallies and counter tallies, commonly called auditor of the receipt of exchequer, became vacant; and thereupon the then commissioners of the treasury did grant the said office to Christ. Montagu, then one of the commissioners of excise, and brother to the said lord, which, the said lord does own and admit, was done at his desire and request; but humbly insisteth the same was not granted contrary to the ancient constitution or approved methods in ordering his majesty's treasury or public revenue; and saith, he the said lord did procure the said office to be granted to his brother, intending, in a short time after, by his majesty's permission, when his majesty's affairs would permit thereof, to leave his the said lord's employments and places in the treasury, and to obtain a surrender from his said brother of the said office, and procure a grant thereof to himself; which, he hopes and humbly insists, was lawful for him to do; and saith, his said brother duly executed the said office till after the said lord had left, or laid down, by his majesty's leave, his places in the treasury; and then, and not before, his said

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brother surrendered the said office, and the said lord obtained a grant of the same, as he conceives was lawful for him to do. In all which proceedings, nothing was done by him the said lord, as he is advised, in violation of the established course and constitution of the exchequer, or to the loss or prejudice of his majesty or the public; and saith, he does not know or believe, that the said several offices, as they were executed, were, in their nature, inconsistent with one another; and is very sure his majesty or the public were no ways prejudiced by the execution of the same.

"VI. To the Sixth Article; the said lord Halifax saith, That he believes, that in the year of our Lord 1689, such Treaty and Alliance and separate Article were made, between the emperor of Germany and the States General of the United Provinces (into which his majesty and the late queen entered), and such ratifications thereof were made, as in this Article is mentioned; and also saith, he hath heard, and believes, that, in the year of our Lord 1698, a Treaty was made, to such effect as in this Article is mentioned; and saith, he never saw the said Treaty, or heard the same read, or does as yet know the Articles or Agreement it contains; and denies that he ever advised his majesty to enter into or make the said Treaty, or was ever consulted upon any clause or article thereof, or ever encouraged or promoted the same: and the said lord saith, That, as he remembers, Mr. Secretary Vernon did at one time send for him, and discourse with him and others, upon an intimation that was given by a letter from the earl of Portland, as he remembers, "That the French king was disposed to commence a negotiation, upon some general terms that were then mentioned, to prevent a war, in case of the king of Spain's death, who was then reported to be very *ill*;" and afterwards the said matter was discoursed between the secretary, the then lord chancellor, and the said lord Halifax, at Tunbridge Wells, when and where the said lord Halifax made several objections to the same; and denies that he gave any opinion to encourage or promote the said Treaty, or ever afterwards was informed of any one particular relating to it, or was ever consulted or advised upon any clause or article of it, or was ever after told or informed that the said Negotiation or Treaty did go on or proceed; and saith, that, not being advised with, or any ways knowing of the said Treaty or Negotiation (except as aforesaid), he could not dissuade or obstruct its taking effect; and saith, as he cannot tell what the effects of the Treaty might have been, if the said Treaty had been observed, so he conceives, and insisteth, that he is not, nor ought to be, answerable for the same.

"And having thus laid his case before your lordships; he humbly saith, and insisteth upon it, that he is Not Guilty of all or any the matters by the said Articles charged, or in them specified, in manner and form as the same are therein and thereby charged against him.

HALIFAX."

Rules for Trial of the impeached Lords.] June 16. The Lords sent a Message to acquaint the commons, "That the lords, taking into their care the ordering of the Trial of John lord Sommers, on the 17th of June instant, in Westminster-hall, have prepared some Notes and Rules to be observed at the said Trial, which the Lords have thought fit to communicate to this house, viz. That the whole Impeachment is to be read, and then the Answer; which being done, the Lord-Keeper is to tell the commons, that now they may go on with their Evidence. Then the Lord-Keeper is to declare, That now the court is proceeding to hear the Evidence, and desire the peers to give attention. If any of the peers, or the members of the house of commons, that manage the Evidence, or the lords impeached, do desire to have any question asked, they must desire the Lord-Keeper to ask the same. If any doubt doth arise at the Trial, no debate is to be in the court, but the question suspended to be debated in this house. The members of the house of commons to be there before the peers come. None to be covered at the Trial but the peers. That such peers at the Trial of the impeached lords, who at the instance of the said lord, or of the commons, shall be admitted Witnesses, are to be sworn at the clerk's table, and the Lord-Keeper to administer the Oath, and are to deliver their Evidence in their own places. Those Witnesses that are commoners are to be sworn at the bar by the clerk, and are to deliver Evidence there. The impeached Lords may cross-examine Witnesses, *viva voce*."

Reasons of the Commons against proceeding to the Trial of Lord Sommers.] But the Commons appointed a Committee to consider of the Reasons why they cannot proceed to the Trial of the lord Sommers. Which Reasons were the next day reported by Mr. Harcourt, as follow:

"The Commons, in this whole Proceeding against the impeached Lords, have acted with all imaginable zeal to bring them to a speedy Trial; and they doubt not but it will appear, by comparing their proceedings with all others upon the like occasion, that they have nothing to blame themselves for, but that they have not expressed the resentment their ancestors have justly shewed, upon much less attempts which have been made upon their power of Impeachments.—The Commons, on the 31st of May, acquainted your lordships, that they thought it proper, from the nature of the Evidence, to proceed in the first place upon the Trial of the lord Sommers. Upon the first intimation from your lordships, some days afterwards, that you would proceed to the Trial of the impeached Lords, whom the commons should be first ready to begin with, notwithstanding your lordships had before thought fit to appoint which Impeachment should be first tried, and affix a day for such Trial, without consulting the commons who are the prosecutors:—The commons determine to expedite the Trials to the utmost of their power, in hopes of attaining that end: and for the more speedy

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and easy adjusting and preventing any differences which had happened, or might arise previous to, or upon these Trials, proposed to your lordships at a Conference, as the most parliamentary and effectual method for that purpose, and that which in no manner intrenched upon your lordships judicature, that a Committee of both houses should be nominated, to consider of the most proper ways and methods of proceeding upon Impeachments, according to the usage of parliament.—In the next Message to the Commons, upon the 9th of June, your lordships thought fit, without taking the least notice of this Proposition, to appoint the Friday then following for the Trial of the said lord Sommers; whereunto, as well as to many other Messages and Proceedings of your lordships upon this occasion, the commons might have justly taken very great exceptions; yet, as an evidence of their moderation, and to shew their readiness to bring the impeached lords to speedy justice, the commons insisted only on their Proposition for a Committee of both houses, to settle and adjust the necessary preliminaries to the Trial; particularly, whether the impeached lords should appear on their Trial at your lordships bar as criminals? whether, being under Accusations of the same Crimes, they should sit as Judges on each other's Trial for those crimes, or should vote in their own cases, as it is notorious they have been permitted by your lordships to do, in many instances which might be given; to which particulars, your lordships have not yet given a direct Answer, though put in mind thereof by the commons.—Your lordships at a Conference, having offered some Reasons why you could not agree to a Committee of both houses, to adjust the necessary preliminaries, the commons thereupon desired a free Conference, and your lordships agreed thereunto; at which, it is well known to many of your lordships, who were then present, what most scandalous reproaches, and false expressions, highly reflecting upon the honour and justice of the house of commons, were uttered by John lord Haversham, whereby the commons were under a necessity of withdrawing from the said free Conference; for which offence, the commons have, with all due regard to your lordships, prayed your lordships justice against the lord Haversham, but have as yet received no manner of satisfaction.—The Commons restrain themselves from enumerating your lordships very many irregular and unparliamentary proceedings upon this occasion; but think it is what they owe to public justice, and all the commons of England whom they represent, to declare some few of those Reasons, why they peremptorily refuse to proceed to the Trial of the lord Sommers on the 17th of June. 1. Because your lordships have not yet agreed that a Committee of both houses should be appointed, for settling the necessary preliminaries; a method never until this time denied by the house of lords, whensoever the commons have thought it necessary to desire the same. 2. Should the commons (which they never will do) be contented to give up those Rights, which have been transmitted to them from their ancestors, and are of absolute necessity to their proceedings on Impeachments; yet, whilst they have any regard to public justice, they never can appear as prosecutors before your lordships, till your lordships have first given them satisfaction, that the lords impeached of the said crimes, shall not sit as Judges on each other's Trial for those crimes. 3. Because the Commons have as yet received no Reparation, for the great indignity offered to them at the free Conference by the lord Haversham: the commons are far from any inclination, and cannot be supposed to be under any necessity of delaying the Trial of the lord Sommers: there is not any Article exhibited by them, in maintenance of their Impeachment against the lord Sommers, for the proof whereof they have not full and undeniable Evidence; which they will be ready to produce, as soon as your lordships shall have done justice upon the lord Haversham; and the necessary preliminaries in order to the said Trial, shall be settled by a Committee of both houses.—The Commons think it unnecessary to observe to your lordships, that most of the Articles whereof the lord Sommers stands impeached, will appear to your lordships to be undoubtedly true, from matters of record, as well as by the Confession of the said lord Sommers, in his Answer to the said Articles; to which the Commons doubt not but your lordships will have a due regard, when his Trial shall regularly proceed."

Answer of the Lords.] The Lords sent their Answer to this Message, on June the 20th in these words:

"The Lords, in answer to the Message of the Commons of the 17th instant, say, the only true way of determining, which of the two houses has acted with the greatest sincerity, in order to bring the impeached lords to their Trials, is to look back upon their respective Proceedings.—The Lords do not well understand what the Commons mean by that resentment which they speak of in their Message: their lordships own the house of commons have a right of Impeaching: and the lords have undoubted power of doing justice upon those Impeachments, by bringing them to Trial, and condemning or acquitting the parties in a reasonable time. This power is derived to them from their ancestors, which they will not suffer to be wrested from them by any pretences whatsoever.—Their lordships cannot but wonder, that the commons should not have proposed a Committee of both houses much sooner, if they thought it so necessary for the bringing on the Trials; no mention being of such a Committee, from the 1st of April to the 6th of June, although, during that interval, their delays were frequently complained of by the house of lords.—The manner in which the commons demand this Committee, the lords look upon as a direct invading of their Judica-

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ture; and therefore, as there never was a Committee of both houses yielded to by the lords, in case of any Impeachment for high Crimes and Misdemeanours; so their lordships do insist, that they will make no new precedent upon this occasion. Many Impeachments for Misdemeanors have in all times been determined without such a Committee: and if now the commons think fit, by any unprecedented demand, to form an excuse for not prosecuting their Impeachments, it is demonstrable where the obstruction lies.—As to the Preliminaries which the Commons mention in particular, as proper to be settled at such a Committee, they have received the Resolutions of the house of lords therein, by their Message of the 12th inst. from which (being matters entirely relating to their Judicature) their lordships cannot depart. —As to the last pretence the Commons would make to shelter the delaying the Trials, from some Expressions which fell from the lord Haversham at the free Conference, at which offence was taken, their lordships will only observe, 1. That they have omitted nothing which might give the commons all reasonable satisfaction of their purpose to do them justice in that matter, so far as is consistent with doing justice to that lord; and also to preserve all good correspondence with them; as appears by the several steps they have taken. 2. That this business has no relation to the trial of the impeached lords; and therefore their lordships cannot imagine, why the commons should make satisfaction and reparation against the lord Haversham, a necessary condition for the going on with the Trials, and at the same time, find no difficulties in proceeding on other business."

Lord Sommers tried and acquitted.] June 17. When the day appointed for the Trial of the lord Sommers came, the lords entered upon a debate, and the question was put, "Whether the house should go this day into the Court in Westminster-Hall in order to proceed upon the Trial of the lord Sommers, according to the order of the day?" Which was resolved in the affirmative, though several lords protested against it.* A Message was then sent to the Commons, to acquaint them, that their lordships were going. The other Impeached Lords having asked leave to withdraw, and not sit and vote in the Trial, a question was proposed, "Whether the earl of Orford and the lord Halifax may withdraw at the Trial of the lord Sommers?" This was much opposed by some lords, because the giving such leave supposed, that they had a right to vote; but it was resolved in the affirmative. And, after some other things of form, the lords adjourned into Westminster-Hall, where the Articles of Impeachment against the lord Sommers, and his Answers were read, and, the commons not appearing to prosecute, their lordships adjourned to their house, and entered into a long debate concerning the question, that was to be put. The Judges told them, that, according to the forms of law, it ought to be 'guilty' or 'not guilty.' But those of the Tory party said, as it was certain, that none could vote lord Sommers guilty; so, since the commons had not come to make good the Charge, they could not vote him not guilty; and therefore, to give them some content, the question agreed on to be put was, "That John lord Sommers be acquitted of the Articles of Impeachment against him, exhibited by the house of commons, and all things therein contained; and that the Impeachment be dismissed?" That being settled, the lords returned to Westminster-Hall, and, the question being put, 56 voted in the affirmative, and 31 in the negative; and the Lord-Keeper declared, that the majority was for acquitting him. Then the lords adjourned to their house; and made an order for his being acquitted, and the Impeachment to be dismissed.

Remonstrance of the Commons thereon.] June 20. Upon this, the commons, to justify their refusal to appear at the Trial, resolved, "That the lords have refused justice to the commons upon the Impeachment against the lord Sommers, by denying them a committee of both houses, which was desired by the commons as the proper and only method of settling the necessary preliminaries, in order to the proceeding to the Trial of the lord Sommers with effect; and afterwards, by proceeding to a pretended Trial of the said lord, which could tend only to protect him from justice, by colour of an illegal acquittal. Against which proceedings of the lords, the commons do solemnly protest, as being repugnant to the rules of justice, and therefore null and void. That the house of lords, by the pretended Trial of John lord Sommers, have endeavoured to overturn the right of Impeachments lodged in the house of commons, by the antient constitution of this kingdom, for the safety and protection of the commons against the power of great men; and have made an invasion upon the liberties of the

* This Protest was thought so injurious to the house, that it was ordered to be expunged; but it was as follows: "We do conceive it very improper to proceed to this Trial, before the preliminaries are adjusted, especially since some of those preliminaries are such, as in our opinion are essentially necessary to the administration of justice.—And after such a protestation of the Commons as they have sent to us against the proceedings to a Trial, and which we conceive is founded upon justice, and the reasonable method of parliament, we apprehend our proceeding now to this Trial may tend to the disappointment of all future Trials on impeachments." Somerset, H. Londin. Normanby, Rochester, Carnarvon, Marlborough, La Warr, Oxford, Dartmouth, Weymouth, Jonath. Exon, Scarsdale, Nottingham, Feversham, Plymouth, Abingdon, Denbigh, Warrington, Tho. Roffens. Hunsdon, Weston, Godolphin, Jefferies, Northumberland, T. Jermyn, Derby, Thanet, Peterborough, Lexington, Howard, Cholmondeley, Guildford.

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subject, by laying a foundation of impunity for the greatest offenders. That all the ill consequences, which may at this time attend the delay of the supplies given by the commons, for preserving the public peace, and maintaining the balance of Europe, by supporting our allies against the power of France, are to be imputed to those, who, to procure an indemnity for their own enormous crimes, have used their utmost endeavours to make a breach between the two houses."

Answer of the Lords.] The lords the same day sent this Answer to the above Message:

"The lords do acquaint the commons, that they might have known by the Records of the house of lords, that the lords had proceeded to the Trial of the lord Sommers on Tuesday last, being the day appointed; and the commons not appearing to maintain their Articles against the said lord, the lords had by judgment of their house acquitted him of the Articles of Impeachment against him, exhibited by the house of commons, and all things therein contained, and had dismissed the said Impeachment.—And the lords had appointed Monday next for the Trial of the earl of Orford, on which day they would proceed on the said Trial.—The commons still pressing for a committee of both houses, which their lordships could never consent to for the reasons already given, their lordships could infer nothing from their persisting in this demand, but that they never designed to bring any of their Impeachments to a trial.—As to the lord Haversham, his Answer was now before the house of commons, and the lords resolved to do justice in that matter."

Answer of the Lord Haversham to the Complaint of the Commons.] The same day, the commons had a Copy given them of the lord Haversham's Answer to the Charge against him; viz.

"The said lord Haversham, saving to himself all advantages of exception to the said Charge, and of not being prejudiced by any want of form in this Answer; and also saving to himself all rights and privileges belonging to him as one of the peers of this realm; for Answer to the said Charge, saith, That on the 6th day of June 1701, the commons by a Message sent to the lords, desired a Conference upon their Message to the commons of the 4th of June: In which Conference they proposed to the lords, That a Committee of both houses might be nominated, to consider of the most proper ways and methods of proceeding in the Impeachments of the lords according to the usage of parliaments. That on the 10th of June, the lords desired another Conference with the commons, in which they delivered them their Reasons why they could not agree to the appointing of such a committee; viz. 1. 'That they could not find, that ever such a Committee was appointed on occasion of Impeachments for Misdemeanors, and their obligation to be curious in admitting any thing new relating to judicature. 2. That although a Committee of this nature was agreed to, upon the Impeachments of the earl of Danby, and the five Popish Lords for High-Treason; yet the success in that instance, was not such as should encourage the pursuing of the same method, though in the like case; and that, after so much time spent in the Committee, the disputes were so far from being there adjusted, that they occasioned the abrupt conclusion of a session of parliament. 3. That the methods of proceedings for Misdemeanors are so well settled by the usage of parliament, that no difficulties were likely to happen, nor none had been stated to them; and that all the preliminaries in the Case of Stephen Gaudett, and others, (which was the last instance of Impeachments for Misdemeanors) were easily settled and agreed to, without any such committee. 4. That the Proposal of the commons came so very late, that no other fruit could be expected of such a committee, but the preventing of the Trials during the session.' Whereupon the commons, on the 12th of June, desired of the lords a Free Conference, on the subject matter of the last Conference. That the lords, on the 12th of June, came to two Resolutions in relation to the lords impeached: 1. 'That no lord of parliament, impeached for high Crimes and Misdemeanors, and coming to his Trial, shall upon his Trial, be without the bar. 2. That no lord of parliament, impeached for high Crimes and Misdemeanors, can be precluded from voting on any occasion, except in his own Trial.' And the lords acquainted the commons with the said two Resolutions; and also that they agreed to a Free Conference with the commons, and appointed the next day. That upon the 30th of June, Mr. Harcourt, one of the managers, began the Free Conference on the part of the commons, and argued upon the four Reasons given by the lords, why they could not agree to the appointing a Committee of both houses; and principally relied upon the instance in the Case of the popish lords, and insisted upon the delay that the not agreeing to the nomination of such a committee would necessarily occasion, whereby the lords Trials, and the justice due to the nation, would be retarded. And departing from the subject-matter of the said Conference (which was, whether it were requisite to appoint, or not appoint such a Committee) the said manager discoursed upon the latter of the Resolutions of the lords, communicated to the commons, and said, 'That he wished the lords had sent down their Reasons, as well as their Resolutions;' which words seemed to the said lord Haversham, to carry therein an implication, as if the said Resolution could have no reason to justify it. That sir Barth. Shower, another manager for the commons, observed the same method of discourse; and having argued on the lords Reasons, departed from the subject-matter of the Free Conference, and inveighing against the manner of the lords judicature, asserted by their Resolutions, said, 'That it was abhorrent to justice:' which expressions being foreign (as the said lord Haversham apprehended) to

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the subject-matter of the said Free Conference, which was, whether such Committee of both houses should be appointed or not; the said lord, being appointed by the lords for one of the managers of the said Free Conference on their behalf, in vindication of the honour and justice of the house of peers, and their judicature and resolutions, in answer to what had been said by the managers for the commons, he spoke to the effect following:

'Gentlemen, I shall begin what I have to 'say, as that worthy member who opened this 'conference, that there is nothing the lords more 'desire than to keep a good correspondence, 'which is so necessary to the safety of the na- 'tion, and the dispatch of public business; and 'nothing they have more carefully avoided, 'than what might create a misunderstanding 'between the two houses. A greater instance 'of which could not be given, than the Mes- 'sages my lords returned to some the com- 'mons had sent them up; in which they took 'care to express themselves so cautiously, that 'no heat might arise from any expression of 'theirs. And as to what the worthy mem- 'bers mentioned, in relation to delay; the re- 'peated remembrances sent the commons, with 'relation to the sending up the Articles against 'the impeached lords, are a sufficient instance 'how desirous they are that these matters 'should proceed. And the lords have this sa- 'tisfaction, that it is not on their part that the 'Trials are not in a greater forwardness; they 'cannot but look on it as a great hardship, that 'they should lie under long delays on Impeach- 'ments. Persons may be incapable; facts 'may be forgotten: evidences may be laid 'out of the way; witnesses may die; and 'many other like accidents may happen. The 'instance the worthy members give of the po- 'pish lords, as it is a crime of another nature, 'and not fully to the point, so it seems to make 'against what it was brought for: for the 'worthy members say, there was but one of 'the lords brought to justice, though four more '(as I take it) were accused. And can any 'man believe, that the commons have a mind 'to bring only one of these lords to Trial? It 'is inconsistent with the opinion that every 'body must have of their justice. And as to 'the point of Judicature, it were very hard 'upon the lords, that no person should be 'brought to trial, till the judicature of the 'house be so first. The judicature of the 'lords is their peculiar, and hath in former 'ages been sacred with the commons them- 'selves. And this house, perhaps, hath as 'much reason to be jealous, and careful of it, 'as any other house ever had; especially when 'one single precedent is so urged and insisted 'upon. One thing there is which a worthy 'member mentioned, though I cannot speak to 'it at large, because I think myself bound up 'by the resolutions of the house; yet it must 'have some answer; that is, as to the lords 'voting in their own case; it requires an an- 'swer, though I cannot enter into the debate 'of it. The commons themselves have made 'this precedent; for in these Impeachments 'they have allowed men, equally concerned in 'the same facts, to vote in their own house; 'and we have not made the distinction in ours, 'that some should vote and some not. The 'lords have so high an opinion of the house of 'commons, that they believe justice shall never 'be made use of as a mask for any design, 'And therefore give me leave to say, though I 'am not to argue it, it is to me a plain demon- 'stration, that the commons think those lords 'innocent; and I think the proposition is un- 'deniable: for when there are several lords 'in the same circumstances, in the same facts, 'there is no distinction; and the commons 'leave some of these men at the head of af- 'fairs, near the king's person, to do any mis- 'chief if they were inclined to it; it looks as if 'they thought them all innocent. This was a 'thing I was in hopes I should never have 'heard asserted, when the beginning of it was 'from the house of commons.'

"The said lord being here interrupted, he desired to be heard out, and that his words might be taken down in writing. But the Managers for the commons broke up, and departed, refusing to hear any explanation. Now the said lord, as to any implicit charge of a design to reflect on, or dishonour the house of commons, denies any such design or intention; having for many years, had the honour to sit in the house of commons, and having ever had an honourable and respectful sense thereof: but the said lord was led to express himself in the manner aforesaid, for the Reasons aforesaid, and takes himself to be justified therein, by the facts and reasons following:—That the nature of that Conference was, that it should be free; the occasion of it, because either house apprehended the other to be in an error, and the end of it, that each side might urge such facts as are true, and such Reasons as are forcible to convince. That one Article of the Impeachment against John lord Somers, was, That the Treaty of Partition 1699, was ratified under the Great Seal, which then was in the custody of the same lord, then lord-chancellor of England; that the commons on the 1st of April 1701, Resolved, That the earl of Portland by negotiating and concluding the Treaty of Partition, was guilty of a high crime and misdemeanor; and pursuant thereto, lodged an Impeachment against him in the house of peers; which Vote and Impeachment could not have reference to any Treaty, other than the Treaty of Partition of 1699, the Treaty of 1698 not being before the house of commons, till after the time of that Vote and Impeachment: and yet the earl of Jersey, who then was Secretary of State and a Privy-Counsellor, and actually signed the said Treaty of 1699, as a Plenipotentiary with the lord Portland, stands unimpeached, and continues at the head of affairs, being Lord-Chamberlain, near his majesty's person, and his presence and councils, (without complaint:) that the earl of

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Orford, and the lords Somners and Hallifax, are severally impeached for advising the Treaty of Partition of 1698, and yet Mr. Secretary Vernon, who then was Secretary of state, and a Privy-Counsellor, and acted in the promoting of the Treaty of Partition of 1698, stands unimpeached, and still continues one of the principal Secretaries of State; and sir Joseph Williamson, who then was a Privy-Counsellor, and transacted and signed the Treaty of Partition of 1698, as a Plenipotentiary, stands unimpeached. That the lord Halifax is impeached, for that he, being a Commissioner of the Treasury, assented to the passing of divers Grants from the crown to several persons, of lands in Ireland; and yet sir Edw. Seymour, sir Stephen Fox, and Mr. Pelham, who being severally Lords Commissioners of the Treasury, did severally assent to the passing of divers like Grants from his majesty, of lands in Ireland, stand unimpeached. That in the impeachments against the earl of Orford and lord Somners, one of the Articles against them is for procuring a commission to Capt. Kidd, and likewise a Grant under the Great Seal of the ships and goods of certain persons therein named, to certain persons in trust for them; and yet other lords, equally concerned in procuring the said Commission and Grant, stand unimpeached. That the said Mr. Secretary Vernon, sir Edward Seymour, sir Stephen Fox, and Mr. Pelham, notwithstanding their being parties in the same facts, charged in the said respective Impeachments, have been permitted to sit and vote in the house of commons, touching the Impeachments and the matters thereof: That these facts being true and publicly known, the consequences resulting therefrom (as the said lord Haversham apprehended) are undeniable, viz. That the doing of the same thing by two persons in equal circumstances, cannot be a crime in one, and not in another. That the commons had no reason to insist, that the lords should not permit that in their members, which the commons had first permitted, and continued to permit, and so begun the first precedent, in their own members. That it must be thought, that the impeached lords (notwithstanding the facts alledged in the Impeachment) are innocent of danger to the king, when the lord Jersey and Mr. Secretary Vernon, who were respectively concerned in the Partition-Treaty, are permitted without complaint, to be at the head of affairs, and in the king's presence, and of his councils, as not dangerous: That the word *innocent*, used in the words spoken by the said lord Haversham, can extend no further than to such matters as were done by the impeached lords, of the same nature with what was done by those unimpeached. All which facts being true, and the consequences obvious, the said lord being ready to prove the same, he insists that the words, spoken by him at the said Free Conference, were not scandalous or reproachful, nor false, nor reflecting on the honour or justice of the house of commons; but were spoken upon a just occasion, given in answer to several expressions that fell from the managers for the commons, remote, as he conceives, from the matter in question, and reflecting on the honour and justice of the house of peers; and in maintenance and defence of the lords resolution and judicature, and conformable to the duty he owes to the said house. And the said lord humbly demands the judgment of this honourable house therein. And the said lord Haversham denies that he spoke the words specified in the said Charge, in such manner and form, as the same are therein set down. And having thus given a true account of this matter, and it being true and indisputable, that some lords in this house, equally concerned in facts, for which other lords are impeached by the house of commons, are still near the king's person, in the greatest places of trust and honour, and unimpeached; and also, that several members of the house of commons equally concerned in the same facts, for which some of the lords are impeached, do however remain unimpeached; the said lord thinks, such a truth could never have been more properly spoken, in the maintenance and defence of your lordships judicature, and resolutions; and insisteth, that what he said at the Free Conference, was not any scandalous reproach, or false expression, or any ways tending to make a breach in the good correspondence between the lords and commons, or to the interrupting the public justice of the nation, by delaying the proceedings on the Impeachments, as in the said Charge alledged; but agreeable to truth, in discharge of his duty, and in the defence of the undoubted right and judicature of this house.

HAVERSHAN."

The Commons refuse to appear at the Earl of Orford's Trial.] June 20. The commons ordered, "That no Member should presume to appear on Monday next, at the pretended Trial of the earl of Orford, upon pain of incurring the utmost displeasure of the house;" and then adjourned to Tuesday morning. But the lords continued sitting, and on the 21st, resolved, "That unless the Commons' Charge against the lord Haversham, were presented by them with effect before the end of that session, the lords would declare and adjudge him wholly innocent of the Charge."

June 23. It was resolved by the lords "That the Resolutions of the house of commons, in their Votes of the 20th instant, contained most unjust Reflections on the honour and justice of the house of peers, and were contrived to cover their affected and unreasonable delays in prosecuting the impeached lords; and did manifestly tend to the destruction of the Judicature of the lords, to the rendering Trials, and Impeachments impracticable for the future, and to the subverting the constitution of the English government; and therefore, whatever ill consequences might arise, from the so long deferring the Supplies of this year's service, were to be attributed to the fatal council of the putting off the meeting of a parliament so long,

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and to the unnecessary delays of the house of commons."

The Earl of Orford honourably acquitted.] Then the lords adjourned to Westminster-hall, and after two Proclamations made for silence and prosecution, the Articles of Impeachment against Edward earl of Orford were read, and also his lordship's Answer to the said Articles; and after taking the same methods as in the Trial of lord Sommers, his lordship, by unanimous Votes (the lords on the other side withdrawing) was acquitted of the Articles, and the Impeachment was dismissed.

The Impeachments dismissed by the Lords.] June 24, being the last day of the session of this parliament, this Order was made by the lords; "The house of commons not having presented their Charge, which they brought up against John lord Haversham, for Words spoken by him at a Free Conference the 13th instant, the said Charge is hereby dismissed. The earl of Portland being impeached by the house of commons of high Crimes and Misdemeanours, the 1st day of April last, the Impeachment is thereby dismissed, there being no Articles exhibited against him. The house of commons having impeached Charles lord Hallifax of high Crimes and Misdemeanours, on the 15th day of April last, and on the 14th day of this instant June exhibited Articles against him, to which he having answered, and no further Prosecution thereupon, the said Impeachment and Articles are hereby dismissed." At the same time, their lordships dismissed an old Impeachment against the duke of Leeds.

Bill for stating the Public Accounts amended by the Lords.] The affair of the impeached lords, had so much divided both houses, that the correspondence was almost broken off or interrupted with continual disagreements. Hence the commons having passed a Bill for appointing Commissioners to take, state, and examine the Public Accounts, the lords made some amendments to it, which the commons would by no means allow; and drew up these Reasons for their disagreement, to be offered to the lords at a Conference.

"The commons do disagree to the first Amendment made by the lords, because it is notorious, that many millions of money have been given to his majesty by the commons, for the service of the public, which remain yet unaccounted for, to the great dissatisfaction of the good people of England, who chearfully contributed to those Supplies. And their lordships first Amendment prevents any account being taken of those Moneys, by the Commissioners appointed by the commons for that purpose.—The commons do disagree to the second Amendment made by the lords, because John Parkhurst and John Paschall, esqrs. have for several years been Commissioners of the Prizes taken during the late War, and accountable for great sums of money arising thereby, which ought to be applied to the use of the public. That the said John Parkhurst and John Paschall were frequently pressed to account for the same, by the late Commissioners appointed by act of parliament; but by many artifices and evasions, delayed and avoided giving any such Account as was required by the said Commissioners. That the Clause to which their lordships have disagreed by their second Amendment, requires them to account before the first of Sept. next, but by their lordships Amendment they are exempted from giving any such account, which is highly unreasonable.—The commons do disagree to the third Amendment, because their lordships have, in a Clause, directed the commons to allow and certify a pretended Debt to col. Baldwin Layton; whereas the Disposition as well as granting of money by act of parliament, hath ever been in the house of commons; and this Amendment relating to the disposal of Money, does intrench upon that Right.—The commons do disagree to the fourth Amendment, because it is notorious, that Edward Whitaker, mentioned in the rider left out by their lordships, hath by colour of his Impeachment, as Solicitor to the Admiralty, received the sum of 25,000*l.* and upwards of Public Monies, without producing any just or reasonable Vouchers for the Expence thereof; and therefore ought to be accountable for the same.—And that by reason of their lordships disagreeing to the several parts of this Bill, the Supplies provided by the commons for paying the Arrears of the Army, must of necessity be ineffectual till another session of parliament."

The Speaker's Speech to the King on presenting the Money Bills.] To interrupt these fatal Disputes between the two houses, the king without taking any notice of them, thought proper to put an end to this session; and therefore on the 24th, he came to the house of peers, and sent for the commons to attend him; when Mr. Speaker upon presenting the Money-Bills, delivered himself to his majesty in this Speech:

"Sir, it is with great joy and satisfaction that I attend your majesty at this time, since your commons have complied with all your majesty was pleased to desire at their meeting. They have passed the Bill of Succession, which hath settled the Crown in a Protestant Line, and continued the liberty of England, which your majesty hath restored and preserved. They have passed a Bill for taking away those Privileges, which might have proved burthensome and oppressive to your subjects. They have given your majesty those Supplies which are more than ever were given in a time of peace, to enable your majesty when you are abroad, to support your Allies, procure either a lasting peace, or to preserve the liberties of Europe by a necessary War."

The King's Speech at the close of the Session.] The King, having given his royal assent to the said Bills, made the following Speech to both houses:

"My Lords and Gentlemen; The session being now come to a conclusion, I must return you my hearty thanks for the great zeal you

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have expressed for the public service, and your ready compliance with those things which I recommended to you at the opening of this parliament. And I must thank you, Gentlemen of the House of Commons in particular, both for your dispatch of those necessary Supplies, which you have granted for the public occasions, and for the encouragements you have given me, to enter into Alliances for the preservation of the Liberty of Europe, and the support of the Confederacy; in which, as it shall be my care, not to put the nation to any unnecessary expence, so I make no doubt, that whatsoever shall be done during your recess, for the advantage of the common cause in this matter, will have your approbation at our meeting again in the winter.—My Lords and Gentlemen; I shall conclude with recommending to you all, the discharge of your duties in your respective counties; that the peace of the kingdom may be secured, by your vigilance and care in your several stations."

Then the Lord-Keeper, by his majesty's command, prorogued the Parliament until the 7th of August next.

The Parliament dissolved.] Thus ended the session of parliament, which had the worst aspect of any that had sat during this reign. On the 28th of June, the king nominated, to be justices in his absence, the Archbishop of Canterbury, sir Nathan Wright, Lord-Keeper, the earl of Pembroke, first Commissioner of the Admiralty, the duke of Devonshire, the earl of Jersey, and the lord Godolphin. Three days after the gentlemen, who were imprisoned for delivering the Kentish Petition, being discharged of course, at the end of the session, were splendidly entertained at Mercers-hall, at the charge of the citizens, being accompanied by several of the nobility and gentlemen of the first rank. They were likewise very honourably received, upon their return into their own country.—On the 1st of July, the king embarked at Margate, and on the Thursday following arrived in the Maese, and went that night to the Hague.—He embarked for England towards the beginning of November, and landed at Margate on the 4th of that month; and the first thing, that fell under debate, upon his return, was, whether the Parliament should be continued, or dissolved, and a new one called. The parliament being first prorogued till the 13th of November, a proclamation was published on the 11th of that month for dissolving it, and summoning another to meet at Westminster on the 30th of December. The heats in elections increased with every new summons; and this was thought so critical a conjuncture, that both sides exerted their full strength. Most of the great counties and the chief cities chose men who were zealous for the king and government; but the rotten part of our constitution, as an eminent author stiles the small boroughs, were in many places wrought on to chuse bad men. However, upon the whole, it appeared, that a clear majority was in the king's interests. Tindal.

First Session of the Sixth and last Parliament of King William III.

List of the House of Commons.] December 30, 1701. This day the New Parliament met at Westminster. The following is a List of the Members of the House of Commons:

A List of the House of Commons, in the Sixth and Last Parliament of King William III. December 20, 1701.

Abington,
Simon Harcourt.
Agmondesham,
John Drake,
Will. Lord Cheney.
Albans, (St.)
George Churchill,
John Gape.
Aldborough, (Suffolk)
Sir Henry Johnson,
William Johnson.
Aldborough (Yorksh.)
Robert Moncton,
Cyril Arthington.
Allerton-North,
Sir William Hustler,
Daniel Lascels.
Andover,
John Smith,
Francis Shepherd.
Anglesea,
Richard Visc. Bulkeley.
Apulby,
Jarvis Pierrepoint,
Wharton Dunch.
Arundel,
Carew Weeks,
John Cook.
Ashburton,
Sir Thomas Lear,
William Stawell.
Aylesbury,
James Herbert,
Thomas Lee.
Banbury,
Charles North.
Barnstable,
Arthur Campancys,
Nicholas Hooper.
Bath,
Alexander Popham,
William Blaithwayt.
Beaumaris,
Robert Bulkeley.
Bedfordshire,
Sir William Gostwick,
Edward Russel.
Bedford Town,
William Farrar,
William Spencer.
Bedwin,
Mich. Mitford,
Francis Stonehouse.
Berkshire,
Sir John Stonehouse,
Richard Nevil.
Berwick,
Jon. Hutchinson,
Samuel Ogle.
Beverley,
Sir Mich. Wharton,
William Gee.
Bexdley,
Salway Winnington.
Bishops Castle,
Henry Bret,
Charles Mason.
Bletchingly,
Sir Edward Gresham,
John Ward.
Bodmin,
John Hoblyn,
Russel Roberts.
Boralston,
William Cooper,
Peter King.
Boroughbridge,
Sir Brian Stapleton,
Sir Henry Goodrick.
Bossiny,
Sir John Molesworth,
John Manley.
Boston,
Peregrine Bertie,
Sir William York.
Brackley,
Charles Egerton,
Henry Mordaunt.
Bramber,
Francis Conway,
Thomas Owen.
Brecon County,
Sir Rowland Gwyn.
Brecon Town,
Sir Jeffry Jeffreys.
Bridgwater,
Sir Thomas Wroth,
George Balch,
Bridport,
William Gueston,
Alexander Pitfield.
Bristol,
Sir William Daines,
Robert Yates.
Bridgenorth,
Robert Pope,
Sir Edward Acton.
Buckinghamshire,
Robert Dormer,
Goodwyn Wharton.
Buckingham Town,
Sir Edward Denton,
Sir Richard Temple,
Calne,
Henry Chivers,
Henry Blake.
Cambridgeshire,
Sir Rushout Cullen.
Lord Cutts.
Cambridge Town,
Sir John Cotton,
Sir Henry Pickering.
Cambridge University,
Isaac Newton,

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Henry Boyle.
Camelford,
Henry Manaton,
Dennis Glynn.
Canterbury,
George Sayer,
Henry Lee.
Cardiff,
Thomas Mansel.
Cardigan County,
Lewis Price.
Cardigan Town,
Henry Lloyd.
Carlisle,
Philip Howard,
James Lowther.
Caermarthen County,
Griffith Rice.
Caermarthen Town,
Richard Vaughan.
Caernarvon County,
Thomas Bulkeley.
Caernarvon Town,
Sir John Wynn.
Castle-rising,
Lord Hartington,
Robert Walpole.
Chester County,
Sir Robert Cotton,
John Mainwaring.
Chester Town,
Sir Henry Bunbury,
Peter Shackle.
Chichester,
John Miller,
William Elson.
Chippenham,
Lord Mordaunt,
Walter White.
Chipping Wycombe,
Fleetwood Dormer,
Charles Godfrey.
Christ's Church,
Francis Gwyn,
William Ettericke.
Cirencester,
William Maisters,
Charles Cox.
Clifton,
Nathaniel Herne,
Frederick Herne.
Clithero,
Ambrose Pudsey,
Thomas Stringer.
Cockermouth,
Thomas Lamplugh,
William Seymour.
Colchester,
Sir Isaac Rebow,
Sir Thomas Cook.
Corf-Castle,
Richard Fownes,
John Banks.
Cornwall,
John Granville,
James Butler.
Coventry,
Edward Hopkins.
Cricklade,
Sir Stephen Fox,
Edmund Dunch.
Cumberland,
Sir Edward Hassel,
George Fletcher.
Denbigh County,
Sir Richard Middleton.
Denbigh Town,
Edward Brereton.
Derbyshire,
John Curson,
Thomas Coke.
Derby Town,
John Harpur,
Lord Cavendish.
Devizes,
Sir Francis Child,
John Methuen.
Devonshire,
Sir John Pole,
William Courtney,
Dorchester,
Sir Nathaniel Napier,
Nathaniel Napier.
Dorsetshire,
Thomas Strangeways,
Thomas Trenchard.
Dover,
Philip Papillon,
Matthew Aylmer.
Downton,
Sir James Ash,
Crew Rawley.
Droitwich,
Charles Cox,
Edward Foley.
Dunwich,
Sir Charles Blois,
Robert Kemp.
Durham County,
William Lampton,
Lionel Vane.
Durham City,
Sir Henry Bellesis,
Charles Montagu.
Eastlow,
Sir Henry Seymour,
George Courtney.
Edmunds Bury,
Sir Thomas Felton,
John Harvey.
Essex,
Sir Francis Marsham,
Sir Charles Barrington.
Evesham,
Sir James Rushoot,
Henry Parker.
Exeter,
Sir Henry Seymour,
John Snell.
Eye,
Spencer Compton,
Sir Joseph Jekyll.
Flintshire,
Sir R. Mostyn.
Flint Town,
Sir John Conway.
Fowey,
John Williams,
John Hicks.
Gatton,
Thomas Turgis,
Maurice Thompson.
Germains, (St.)
Richard Edgefield,
Henry Fleming.
Glamorgan,
Sir Thomas Mansel.
Gloucestershire,
Maynard Colchester,
Richard Cocks.
Gloucester City,
Lord Dursley,
John Hanbury.
Grampound,
Francis Scobell,
Sir William Scawen.
Grantham,
Sir William Ellis,
Richard Ellis.
Grimsby,
William Coatsworth,
Arthur Moore.
Grimstead,
Earl of Orrery,
John Conyers.
Guildford,
Denzil Onslow,
Morgan Randell.
Harwich,
Sir Thomas Devall,
Dennis Lyddell.
Haslemere,
George Woodroffe,
George Vernon.
Hastings,
John Mounsher,
John Pulteney.
Haverford West,
William Wheeler.
Helston,
Francis Godolphin,
Sidney Godolphin.
Herefordshire,
Sir John Williams,
Henry Gorges.
Hereford City,
Thomas Foley,
James Bridges.
Hertfordshire,
Ralph Freeman,
Thomas Halsey.
Hertford Town,
Charles Cæsar,
Richard Goulston.
Heydon,
Sir Robert Hillyard,
Anthony Duncombe.
Heyteshury,
Sir Edward Ernley,
Edward Ash.
Higham Ferrers,
Thomas Pemberton.
Hindon,
George Morley,
Reynolds Calthorp.
Honiton,
Sir William Drake,
Sir Walter Yonge.
Horsham,
John Wicker,
Henry Yates.
Huntingdonshire,
John Dryden,
John Proby.
Huntingdon Town,
Charles Boyle,
Francis Wortley.
Hythe,
Sir Philip Boteler,
John Boteler.
Ilchester,
Sir Francis Windham,
Joseph Anderson.
Ipswich,
Charles Whitaker,
Richard Philips.
Ives, (St.)
Sir John Hawles,
James Praed.
Kellington,
Robert Roll,
Samuel Roll.
Kent,
Sir Thomas Hales,
William Champion.
Kingston,
Will. Maisters,
Sir William St. Quintin.
Knaresborough,
Robert Byerly,
Christopher Stockdale.
Lancashire,
Robert Bold,
James Stanley.
Lancaster Town,
Robert Heysham,
Roger Kirkby.
Lanceston,
Lord Hyde,
William Carey.
Leicestershire,
Lord Rooes,
Lord Sherrard.
Leicester Town,
Lawrence Carter,
James Winstanley.
Leominster,
Thomas Coningsby,
Edward Harley.
Leskard,
Thomas Dobson,
William Bridges.
Lestwithiel,
Sir John Molesworth,
George Booth.
Lewes,
Henry Pelham,
Thomas Pelham.
Lincolnshire,
Sir John Thorold,
Charles Dymock.
Lincoln City,
Sir John Bolles,
Sir Edward Hussey.
Litchfield,
Richard Dyott,
Sir Michael Biddulph.
Liverpool,
Thomas Johnson,
William Clayton.
London,
Sir Robert Clayton,
Sir William Ashurst,
Sir Thomas Abney,
Gilbert Heathcote.
Ludlow,
Sir Tho. Powis,
Francis Herbert.
Ludgershall,
Edmund Webb,
John Webb.
Lyme-Regis,

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John Burridge,
John Paice.
Lymington,
Thomas Dore,
Paul Burrard.
Lynn-Regis,
Sir John Turner,
Sir Charles Turner.
Maidstone,
Sir Robert Marsham,
Thomas Bliss.
Malden,
William Fytch,
John Comyns.
Malmsbury,
Sir Charles Hedges,
Edward Pauncefort.
Malton,
Sir William Strickland,
William Palmes.
Marlborough,
Robert Yard,
John Jeffreys.
Marlow,
Sir John Etheridge,
James Chace.
Mawes, (St.)
Sir Joseph Tredenham,
John Tredenham.
Melcomb Regis,
Sir Christ. Wren,
Anthony Henley.
Merioneth,
Richard Vaughan.
Midhurst,
John Lukener,
Laurence Alcock.
Middlesex,
John Austin,
Warwick Lake.
Milbourn-Port,
Sir Thomas Travel,
John Hunt.
Minehead,
Jacob Banks,
John Lutterel.
Michael, (St.)
Sir Richard Vivian,
Sir Wm. Courtney.
Monmouthshire,
Sir John Williams,
John Morgan.
Monmouth Town,
John Morgan, jun.
Morpeth,
Sir John Delaval,
Emanuel How.
Montgomeryshire,
Edward Vaughan.
Montgomery Town,
John Vaughan.
Newark upon Trent,
Sir Matthew Jennison,
James Saunderson.
Newcastle under Line,
Rowland Cotton,
Sir John Gower.
Newcastle upon Tine,
Sir Henry Lyddel,
William Carr.
Newport, (Cornwall)
William Pole,
Samuel Spark.
Newport, (Hants)
Edward Richards,
James Stanhope.
Newton; (Lancashire)
John Leigh,
Thomas Leigh.
Newton, (Hants)
Thomas Hopton,
John Dudley.
Norfolk,
Sir John Holland,
Roger Townshend.
Northamptonshire,
Sir Justinian Isham,
Thomas Cartwright.
Northampton Town,
Thomas Andrews,
Chr. Montagu.
Northumberland,
William Lorrain,
Sir Francis Blacke.
Norwich,
Edward Clark,
Robert Davy.
Nottinghamshire,
Sir Francis Molineux,
Sir Thomas Willoughby.
Nottingham Town,
Robert Sacheverell,
William Pierrepoint.
Okehampton,
William Harris,
Thomas Northmore.
Orford,
Sir Edmund Bacon,
Sir Edward Turner.
Oxfordshire,
Edward Norris,
Sir Robert Jenkinson.
Oxford City,
Thomas Rowney,
Francis Norris.
Oxford University,
Heneage Finch,
William Bromley.
Pembrokeshire,
Sir Arthur Owen.
Pembroke Town,
William Wheeler.
Penryn,
Alex. Pendarvis,
Samuel Trefusis.
Peterborough,
Gilbert Dolben,
Sidney Montagu.
Petersfield,
Robert Marks,
Robert Mitchell.
Plymouth,
John Woolcomb,
Charles Trelawney.
Plimpton,
Richard Hele,
Courtney Croker.
Pool,
Sir William Phippard,
William Jolliff.
Pontefract,
William Lowther,
Sir John Bland.
Portsmouth,
John Gibson,
Sir George Rook.
Preston,
Henry Ashurst,
Thomas Molineux.
Queenborough,
Thomas King,
Robert Crawford.
Radnor County,
Thomas Harvey.
Radnor Town,
Robert Harley.
Reading,
Tanfield Vatchell,
Anthony Blagrave.
Retford,
John Thornhaugh,
Thomas White.
Richmond,
John Hutton,
Thomas York.
Rippon,
John Sharp,
John Aislaby.
Rochester,
Francis Barrell,
William Buckenham.
Rumney,
John Brewer,
Edward Goulston.
Rutland County,
Sir Tho. Mackworth,
Richard Halford.
Rye,
Thomas Fagg,
Joseph Offley.
Ryegate,
Sir John Parsons,
Stephen Harvey.
Salop County,
Richard Corbett,
Robert Lloyd.
Salop Town,
Richard Mytton,
John Kynaston.
Saltash,
Thomas Carew,
Benjamin Buller.
Sandwich,
Sir Henry Furness,
Sir James Oxenden.
Sarum, New,
Charles Fox,
Robert Eyre.
Sarum Old,
Charles Mompesson,
William Harvey.
Scarborough,
Sir Charles Hotham,
William Thompson.
Seaford,
William Lowndes,
William Chowne.
Shaftsbury,
Sir John Cropley,
Edward Nicholas.
Shoreham,
Nathaniel Gould,
Charles Sergison.
Somersetshire,
Sir Philip Sydenham,
Nathaniel Palmer.
Southampton County,
Thomas Jarvis,
Richard Chandler.
Southampton Town,
Adam Cardonel,
Mitford Crow.
Southwark,
Charles Cox,
John Cholmondeley.
Staffordshire,
Henry Pagett,
Edward Baggott.
Stafford Town,
Thomas Foley,
John Pershall.
Stamford,
Charles Cecil,
Charles Bertie.
Steyning,
Henry Goring,
Sir Robert Fagg.
Stockbridge,
Anthony Barnaby,
Frederick Tilney.
Sudbury,
Sir Jervis Elwys,
John Hutton.
Suffolk,
Lord Dysert,
Sir Samuel Barnardiston.
Surry,
Sir Richard Onslow,
Leonard Wysell.
Sussex,
Sir William Thomas,
Henry Peachy.
Tamworth,
Henry Thynn,
Thomas Guy.
Tavistock,
Edward Russel,
Robert Russel.
Taunton,
Sir Francis Warre,
Edward Clark.
Tewkesbury,
Richard Dowdeswell,
Edmund Bray.
Thetford,
Sir John Woodhouse,
Sir Thomas Hanmer.
Thirsk,
Sir Thomas Frankland,
Sir Godfrey Copley.
Tiverton,
Charles Spencer,
Thomas Bere.
Totness,
Sir Christ. Musgrave,
Thomas Coulston.
Tregony,
Hugh Fortescu,
Francis Roberts.
Truro,
Sir Ralph Cotton,
Henry Vincent.
Wallingford,
William Jennings,
Thomas Rondo.
Warwickshire,
Sir J. Mordant,
Sir C. Shuckborough.
Warwick Town,
Francis Greville,
Algernoon Greville.
Wareham,

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Thomas Erle,
George Pitt.
Wells,
William Coward,
Henry Portman.
Wendover,
Richard Hampden,
Richard Crawley.
Wenlock,
William Forrester,
George Weld.
Weobly,
John Birch,
Robert Price.
Westbury,
Henry Bertie,
Robert Bertie.
Westlow,
Lord Ranelagh,
James Kendall.
Westminster,
Sir Henry Duttoncolt,
James Vernon.
Westmoreland,
Henry Graham,
Sir Richard Saudford.
Weymouth,
Charles Churchill,
George St. Lee.
Whitchurch,
John Shrimpton,
Richard Woolastone.
Winchelsea,
Robert Austin,
John Hayes.
Winchester,
Lord Pawlet,
George Bridges.
Windsor,
Lord Fitzharding,
Richard Topham.
Wilton,
Sir Henry Ashurst,
John Gantlet.
Wiltshire,
Edward Ernly,
William Ash.
Woodstock,
James Bertie,
Sir Thomas Littleton.
Wooton Basset,
Henry St. John,
Thomas Jacob.
Wygan,
Sir Alexander Rigby,
Sir Roger Bradshaw.
Worcestershire,
Sir John Packington,
William Bromley.
Worcester City,
Thomas Wilde,
Samuel Swift.
Yarmouth, (Norfolk)
John Nicholson,
John Burton.
Yarmouth, (Hants)
Anthony Morgan,
Henry Holmes.
Yorkshire,
Lord Fairfax,
Lord Irwyn.
York City,
Sir William Robinson,
Toby Jenkins.

Speaker to this Parliament, ROBERT HARLEY.

Mr. Harley chosen Speaker.] Dec. 30. The New Parliament being met, the King came to the House of Peers, and sent for the Commons, to whom the Lord-Keeper signified his majesty's pleasure, that they should forthwith proceed to the choice of a Speaker, and present him the next morning. The competition for that office lay between Mr. Robert Harley, and sir Thomas Littleton. The king and council inclined to sir Thomas; but Mr. Harley was elected by a majority of 14 voices.

The King's last Speech in Parliament.] Dec. 31. His majesty opened the Session with the following Speech* to both Houses:

"My Lords and Gentlemen; I promise myself you are met together full of that just sense of the common danger of Europe, and the resentment of the late proceedings of the French king, which has been so fully and universally expressed in the loyal and seasonable Addresses of my people.—The owning and setting up the pretended Prince of Wales for king of England, is not only the highest indignity offered to me and the nation, but does so nearly concern every man, who has a regard for the Protestant Religion, or the present and future quiet and happiness of his country, that I need not press you to lay it seriously to heart, and to consider what further effectual means may be used, for securing the Succession of the Crown in the Protestant line, and extinguishing the hopes of all Pretenders, and their open and secret abettors.—By the French king's placing his Grandson on the throne of Spain, he is in a condition to oppress the rest of Europe, unless speedy and effectual measures be taken. Under this pretence, he is become the real Master of the whole Spanish Monarchy; he has made it to be intirely depending on France, and disposes of it, as of his own dominions, and by that means he has surrounded his neighbours in such a manner, that, though the name of peace may be said to continue, yet they are put to the expence and inconveniencies of war.—This must affect England in the nearest and most sensible manner, in respect to our trade, which will soon become precarious in all the variable branches of it; in respect to our peace and safety at home, which we cannot hope should long continue; and in respect to that part, which England ought to take in the preservation of the liberty of Europe.—In order to obviate the general calamity, with which the rest of Christendom is threatened by this exorbitant power of France, I have concluded several Alliances, according to the encouragement given me by both houses of parliament, which I will direct shall be laid before you, and which, I doubt not, you will enable me to make good.—There are some other Treaties still depending, that shall be likewise communicated to you as soon as they are perfected.—It is fit I should tell you, the eyes of all Europe are upon this Parliament; all matters are at a stand, till your resolutions are known; and therefore no time ought to be lost.—You have yet an opportunity, by God's blessing, to secure to you and your posterity the quiet enjoyment of your Religion and Liberties, if you are not wanting to yourselves, but will exert the antient vigour of the English nation; but I tell you plainly, my opinion is, if you do not lay hold on this occasion, you have no reason to hope for another.—In order to do your part, it will be necessary to have a great strength at sea, and to provide for the security of our ships in harbour; and also that there be such a force at land, as is expected in proportion to the forces of our Allies.—Gentlemen of the House of Commons; I do recommend these matters to you with that concern and earnestness, which their importance requires. At the same time I cannot but press you to take care of the public credit, which cannot be preserved but by keeping sacred that maxim, that they shall never be losers, who trust to a Parliamentary security.—It is always with regret, when I do ask aids of my

* "The lord Sommers is supposed to have assisted in framing this Speech, which was so acceptable to the well-wishers to the Revolution, and their friends abroad, that it was printed with decorations in English, Dutch, and French, and hung up in frames in almost every house in England and Holland, as his majesty's last legacy to his own and all Protestant people." Tindal.

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people; but you will observe, that I desire nothing, which relates to any personal expence of mine; I am only pressing you to do all you can for your own safety and honour, at so critical and dangerous a time; and am willing, that what is given, should be wholly appropriated to the purposes for which it is intended.—And, since I am speaking on this head, I think it proper to put you in mind, that, during the late war, I ordered the accounts to be laid yearly before the Parliament, and also gave my assent to several bills for taking the public accounts, that my subjects might have the satisfaction, how the money given for the war was applied; and I am willing that matter may be put in any further way of examination, that it may appear, whether there were any misapplications and mismanagements; or whether the debt, that remains upon us, has really arisen from the shortness of the supplies, or the deficiency of the funds.—I have already told you, how necessary dispatch will be for carrying on that great public business, whereon our safety, and all that is valuable to us depends. I hope, what time can be spared, will be employed about those other very desirable things, which I have so often recommended from the throne; I mean, the forming some good bills for employing the poor, for encouraging trade, and the further suppressing of vice.—My Lords and Gentlemen; I hope you are come together determined to avoid all manner of disputes and differences; and resolved to act with a general and hearty concurrence for promoting the common cause, which alone can make this a happy session.—I should think it as great a blessing as could befall England, if I could observe you as much inclined to lay aside those unhappy fatal animosities, which divide and weaken you, as I am disposed to make all my subjects safe and easy as to any, even the highest offences, committed against me.—Let me conjure you to disappoint the only hopes of our enemies by your unanimity. I have shewn, and will always shew, how desirous I am to be the common father of all my people. Do you, in like manner, lay aside parties and divisions. Let there be no other distinction heard of amongst us for the future, but of those, who are for the Protestant Religion, and the present establishment, and of those, who mean a Popish Prince, and a French government.—I will only add this; if you do in good earnest desire to see England hold the balance of Europe, and to be indeed at the head of the Protestant interest, it will appear by your right improving the present opportunity."

The Lords Address concerning the Pretender being owned in France.] January 1, 1701-2. The lords presented the following Address to his majesty:

"We your majesty's most dutiful and loyal subjects, the lords spiritual and temporal in parliament assembled, did hear, with all imaginable satisfaction, your majesty's most gracious Speech to both your houses of parliament; for which we return your majesty our most humble and hearty thanks: And though the several particulars, which your majesty was pleased to recommend to us, are of the highest importance, and that we will lose no time in proceeding to the consideration of them, with great duty to your majesty; yet we cannot defer expressing our just resentments of the proceedings of the French king, in owning and setting up the pretended prince of Wales for king of England and other your majesty's realms and dominions, which we take to be the highest indignity that can be offered to your sacred majesty and this kingdom; and we do assure your majesty, we are so sensible thereof, that we are resolved to assist your majesty to the utmost of our power, in defending your sacred person and government from all attempts whatsoever that shall be made, either from your open or secret enemies: And, that no enemies to our religion and country may ever hope to prosper in their attempts against us, when, to our great unhappiness, it shall please God to deprive us of your majesty's protection; we do further declare our resolution, to assist and defend, to the utmost of our power, against the pretended prince of Wales and all other pretenders whatsoever, every person and persons, who have right to succeed to the crown of these realms, by virtue of the two acts of parliament, intituled, 'An act declaring the Rights and Liberties of the Subject and settling the Succession of the Crown;' and, 'An act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject.' And we conclude with our earnest prayers to Almighty God, for your majesty's long and happy reign over us."

The King's Answer.] His majesty made this Answer:

"My lords; I heartily thank you for your very seasonable Address, and for all your kind expressions of duty to me in it. I recommend to you, to take into your speedy consideration, the other matters mentioned in my Speech, and doubt not but that your resolutions will be for the honour and safety of the kingdom."

The Commons' Address.] Jan. 5. The commons presented their Address as follows:

"Most gracious sovereign, We your majesty's most dutiful and loyal subjects, the Commons of England in parliament assembled, do return our most humble and hearty Thanks to your majesty, for your most gracious Speech from the throne: and humbly crave leave to assure your majesty, that this house will support and defend your majesty's lawful and rightful Title to the crown of these realms, against the pretended prince of Wales, and all his open and secret Abettors and Adherents, and all other your majesty's enemies whatsoever. And we will enable your majesty to shew your just resentment of the affront and indignity offered to your majesty and this nation, by the French king, in taking upon him to declare the pretended prince of Wales king of England, Scotland and Ireland: And we are firmly and

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unanimously resolved to maintain and support the Succession to the imperial crown of this realm, and the dominions and territories thereunto belonging in the Protestant line, as the same is settled by an Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown; and further provided for, by an Act of the last parliament, entitled, An Act for the farther Limitation of the Crown, and better securing the Rights and Liberties of the subject. And for the better effecting the same, we will, to the utmost of our power, enable your majesty to make good all those Alliances your majesty has made, or shall make, pursuant to the Addresses and Advice of your most dutiful and loyal commons of the last parliament, for the preserving the Liberties of Europe and reducing the exorbitant power of France."

The King's Answer.] To which his majesty gave this Answer:

"Gentlemen, I give you my hearty Thanks for this Address, which I look upon as a good omen for the session. The unanimity with which it passed, adds greatly to the satisfaction I receive from it; so good a step at your first entrance upon business, cannot but raise the hopes of all who wish well to England and to the common cause. I can desire no more of you than to proceed as you have begun; and I depend upon it: For, when I consider how chearfully and universally you concurred in this Address, I cannot doubt but every one of you will sincerely endeavour to make it effectual in all the parts of it."

State of Affairs laid before the Commons.] Jan 6. To bring the house of commons into more effectual measures for espousing and supporting the cause of a new War, the king commanded Mr. Secretary Vernon to lay before them the copies of the Treaties of the Grand Alliance, viz. "1. The Treaty between himself, king of Denmark, and the States General, June 15, 1701. 2. The Secret Articles of that Treaty. 3. The Treaty between the emperor, his majesty, and the States General, Sept. 7, 1701. 4. A Convention between his majesty, the king of Swedea, and the States General, Sept. 26, 1701. 5. The Treaty between his majesty and the States General, Nov. 11, 1701."

A Supply voted.] All which were so well approved, that the house immediately resolved, "That a Supply be granted to his majesty; and that whoever should advance or lend to his majesty's exchequer the sum of 600,000*l.* for the service of the Fleet, should be repaid the same with interest at 6 per cent: out of the first Aids to be granted this session: and that whosoever should advance the further sum of 50,000*l.* for the subsistence of the Guards and Garrisons, should be repaid in like manner."

A Bill for the Security of his Majesty's Person brought in.] Jan. 9. But what gave the greatest vigour to a war abroad and unity at home, was, that this day they resolved unanimously, "That leave be given to bring in a Bill, for securing of his majesty's person, and the Succession of the Crown in the Protestant line, and extinguishing the hopes of the pretended prince of Wales, and all other pretenders, and their open and secret abettors." And the next day they further resolved, That an humble Address be presented to his majesty, that he would be graciously pleased to take care, that it be an Article in the several Treaties of Alliance between his majesty and other potentates, 'That no peace shall be made with France, until his majesty and the nation have reparation for the great indignity offered by the French king, in owning and declaring the Pretended Prince of Wales king of England, Scotland, and Ireland:' They agreed at the same time, "That the proportion of Land-Forces to act in conjunction with the forces of the Allies, for making good the Alliances, be 40,000 men, and 40,000 more for Sea-service." These were the numbers the king by the Alliances was obliged to furnish, and all was consented to in every particular.

The pretended Prince of Wales is attainted.] The commons began a Bill for the Attainder of the pretended prince of Wales, to which, though it could not be opposed, much less stopped, many shewed a coldness, and absented themselves on the days, on which it was ordered to be read. It was sent up to the lords, and passed that house on the 20th of Feb. with an addition of an attainder of the queen, who acted as queen regent for him. This was much opposed; for no evidence could be brought to prove the allegation; but the fact was so notorious, that it passed, and the Bill was sent down again to the commons. It was excepted to there as not regular, since but one precedent in king Henry 8's time was brought for it; and in that the commons had added some names, by a clause in a Bill of Attainder sent down to them by the lords; and, as this was a single precedent, so it seemed to be a hard one. For, attainders by bill being the greatest rigours of the law, the stretching of that ought to be avoided. It was therefore thought more proper to attaint her by a bill apart than by a clause in another bill, to which the lords agreed, and so the Bill against the pretended prince of Wales passed. The lords also passed a new bill attainting the queen, but that was let sleep in the house of commons.

An Act for abjuring the pretended Prince of Wales.] The matter, that occasioned the longest and warmest debates in both houses, was an Act for abjuring the pretended prince of Wales, and for swearing to the king, by the title of 'rightful' and 'lawful' king, and his heirs, according to the act of settlement. This was begun in the house of lords, and the first design was, that the Oath should be voluntary, it being only to be tendered to all persons, and their subcription or refusal to be recorded, without any other penalty. This was vehemently opposed by all the Tory party, at the head of whom the earl of Nottingham set himself. About twenty lords persisted in their opposition to this bill, those, who were

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for it, being thrice that number. But in the house of commons, when it appeared how the lords were inclined, they resolved to bring in a bill, that should oblige all persons to take this Abjuration. It was drawn by sir Charles Hedges. All employments in church and state were to be subject to it. Some things were added to the Abjuration, such as an obligation to maintain the government in king, lords, and commons, and to maintain the church of England, together with the toleration for dissenters. Mr. Finch offered an alteration to the clause abjuring the prince of Wales, so that it imported only an obligation not to assist him; but, though he pressed this with unusual vehemence in a debate, that he resumed seventeen times in one session, against all rules, he had few to second him in it. The debate, whether the Oath should be imposed or left free, held longer. It was carried but by one vote to impose it.

The Commons, after a long delay, sent up the Bill for abjuring the pretended Prince of Wales. In the house of lords the Tories opposed it all they possibly could; and, as it was a new Bill, the debate was intirely open. They first moved for a Clause, excusing the Peers from it. If this had been received, the Bill would have been certainly lost, for the commons would not have yielded to it. When this was rejected, they tried to bring it back to be voluntary. This motion was thought a strange inconsistency in those, who had argued against even the lawfulness of a voluntary oath; but it was visible, that they intended by it only to lose or at least to delay the bill. When this was over-ruled by the house, not without a mixture of indignation in some against the movers, they offered next all those clauses, which had been rejected in the house of commons, with some other very strange additions, by which they discovered both great weakness and an inveterate rancour against the government; the opposition ended in a protest of several Peers, when it passed on the 24th of Feb. Burnet, Boyer, Tindal.

Protest thereon.] This protest was as follows, 1. "We conceive, that no new oath should be imposed upon the subject, forasmuch as those, established by an act made in the first year of the reign of his majesty and the late queen Mary, were, together with our rights and liberties, ascertained in that act under the terms of our Submission to his majesty, which were enacted to stand, remain, and be the law of this realm for ever; and which, we conceive, do comprehend and necessarily imply all the duty and allegiance of the subject to their lawful king.—2. And much less should any new oath be imposed upon the lords, with such a penalty as to lose their seats in parliament, upon their refusing it; such a penalty being, in some measure, an intrenchment upon our constitution, and expressly contrary to the standing order of this house made the 20th day of Apr. 1675.—3. And, if such an infringement of the rights of Peers might be admitted, yet, in a matter of so great importance to all the Peers, we conceive, that in justice they should all have had notice of this matter, and been especially summoned to have attended the house upon so great an occasion; which has not been done, though it was moved and humbly desired on behalf of the absent lords.—4. And, if any further evidence of the subjects fidelity were, at this time, necessary to be required, we conceive a new oath is no such evidence, nor any additional security to the government; because those who have kept the oaths, which they have already taken, ought in justice to be esteemed good subjects; and those, who have broken them, will make no scruple of taking or breaking any others, that shall be required of them. And consequently this new oath may be of dangerous and pernicious consequence to the government, by admitting such ill men, who do not fear an oath, into the greatest trusts, and who, under the specious pretence and protection of this new oath, which is to free them from suspicion, will have greater opportunities of betraying their king and their country.—5. If a new oath were necessary, as we conceive it is not, yet the words of this oath are so very ambiguous, and have been so differently construed by several lords, who have declared their sense of them, that this may become a snare to men's consciences, or tend to overthrow the obligation of an oath, by allowing men liberty to take it in their own sense; whereas this, as all other oaths, ought to be taken in the sense of the imposer, which hath not been declared in this case, though we earnestly pressed it, and though it has been done in other cases of the like nature.—6. And we conceive, that it necessarily follows from hence, that this oath can be no bond of union among those, who do take it, nor any true mark of distinction between the friends and the enemies of this government; and therefore repugnant to the very nature of a test. (Signed) Winchelsea, Denbigh, Guilford, Craven, Weymouth, Plymouth, Nottingham, Scarsdale, Stawell, Jeffreys."

Proceedings against Fuller for libelling the last House of Commons.] Jan. 22. Fuller, the famous Impostor, who had undertaken to prove all that had been alledged concerning the spuriousness of the pretended Prince of Wales's birth, who had otherwise made his court to the government in the year 1691, by undertaking to discover a Plot of his own contriving, and who was at this time a prisoner in the Fleet, had set forth several Libels, in which he had strained his invention to countenance all that had been said, concerning the distribution of French money among Members of Parliament; upon which occasion the house first appointed a Committee, to consider of methods for preventing Libels and scandalous Papers, and then ordered the said Fuller to be brought to the Bar, in order to be examined concerning the Libels he had written, and how he had been supported and maintained? But, instead of shrinking under this Examination, with an

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impudence peculiar to himself, he took upon him to produce in ten days time, two gentlemen of fortune and character (whom he was pleased to call Thomas Jones, esq. and John Englefield, gent.) and who, having the protection of the house, would make no difficulty to manifest at the bar of the same, That they had in such manner distributed, &c. more than 180,000*l.* by order of the French king, with their own hands. All that he required was granted, and more than all; for he was allowed a fortnight instead of ten days: and in that interval, he amused the house with no less than four Letters; the last of which was to signify, That the said two gentlemen were come near the town in order to attend the house; and that he himself desired to be heard on the morrow, being the 5th of Feb.: and the result was, That he found himself entangled in his own snare, without any possibility of an escape: for the house ordered, that he should, 'at his own desire,' be brought up, and that he should also bring the said two gentlemen along with him. But this was out of his power; no such persons were in being: all that he aimed at was to lay such a story together as might corroborate the suspicions already entertained, and the calumnies already propagated, and on the merit thereof, to quarter himself for life on the party who had set them abroach: and in regard to that merit, it must be presumed, all our historians have either passed over this incident in silence, or else have barely mentioned, that he fell under the censure of the house, without the least hint of his offence.—And yet the said censure is one of the most remarkable that is to be found in the Journals of Parliament. To wit, "Resolved, nem. con. That William Fuller, taking no warning by the just censure he received from the house of commons the 24th of Feb. 1691 (p. 690), and the punishment he suffered by judgment of law, has, again, repeated his vile practices, by several false accusations in divers scandalous Pamphlets by him published, and having undertaken to produce Thomas Jones, esq. and John Englefield, gent. to make good the said Accusations, and not performing the same, this house doth declare the said William Fuller to be a Cheat, a false Accuser, and an incorrigible Rogue." The Attorney-General was moreover ordered to prosecute him. Ralph.

Some remarkable Proceedings in controverted Elections.] Under the head of Controverted Elections, it is farther to be remembered, That on the one hand, Mr. Secretary Vernon (who sat for Westminster) and his son, petitioned against sir Joseph Tredenham and his nephew, who according to the allegations of the said Petitioners, had been unduly, and illegally returned for St. Mawes: And that on the other, several of the burgesses and inhabitants of Malmsbury, petitioned against sir Charles Hedges, (who was also Secretary of State during the election) and Edw. Pauncefort, esq. under pretence, That one Adey, an attorney, had corruptly treated and contracted with several persons, in order to their being elected members for the said borough; and that by those and other unlawful practices, they had carried their election accordingly.—But on better consideration, the Vernons thought fit to apply to the house for leave to withdraw their Petition: and as to the other, it took a turn upon the hearing at the bar of the house, which was altogether extraordinary: For Adey, in person, declared his concern in that affair had been in behalf of Daniel Park, esq. another candidate for the said borough, and not for Hedges and Pauncefort; in verification of which, he produced, and delivered to the clerk of the house, a bag of gold, and a bank note of 200*l.* which he said, he had received from the said Daniel Park.

Certain petitioning Burgesses of Malmsbury ordered into Custody.] Upon which, and after the usual hearing of council on both sides, it was resolved, without a division, "That Hedges and Pauncefort were duly elected: that the Petition of the said burgesses was scandalous, false and vexatious: that the said burgesses should be taken into the custody of the serjeants: that Park had been guilty of notorious bribery and corruption, in endeavouring to procure himself elected; and that he also should be taken into custody, and prosecuted by the Attorney-General."

A Censure passed on the Earl of Peterborough for indirect Practices in favour of the said Park.] Nor did the Affair end here; for in the course of the hearing, it had been made appear, that the earl of Peterborough had interfered on the behalf of Park, which the house being disposed to resent, as a trespass upon one of their fundamentals, his lordship desired to be heard, and was heard with the usual ceremonies, accordingly: Notwithstanding which, and after two several motions, the one to adjourn the house, and the other the debate, had been severally over-ruled, it was resolved, "That it appeared to the house, that the said earl was guilty of many indirect practices, in endeavouring to procure the said Park to be elected a burgess, &c." On every one of these points the house divided, and the difference of the numbers serves to shew in some degree the agitations of the day. For the first division was 156 to 76, the second 158 to 141; and the third, by which time it was very late, 141 to 56.

Besides, so great the indignation of the house appeared to be against the Burgesses in custody, that when they petitioned to be enlarged, without acknowledging their fault, no notice was taken of their Petition; and when they presented a second petition, acknowledging that fault, expressing their sorrow for it, and begging pardon for the same, the motion made for their discharge was over-ruled on a division of the house, by 158 voices against 152: Upon a farther application, they were, however, enlarged; and lastly, the Money and Bank Bill deposited in the hands of the clerk, were redelivered by order, to be made use of upon the prosecution against the said colonel Park.

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Case of Mr. Colepeper the Kentish Petitioner.] It was also the misfortune of Mr. Tho. Colepeper, the undertaker of the Kentish Petition, (p. 1251), to be now a petitioner in his own case, against Thomas Bliss, esq. returned for Maidstone by a majority of only two votes. In the hearings before the committee of privileges and elections, the cause had been so managed that it appeared wrong on his side and right on his adversaries; so that every point was decided against him: Bliss was declared duly elected; and it was resolved, that he had been guilty of corrupt, scandalous, and indirect practices.—Finding, therefore, the current set so strongly against him, he endeavoured to bespeak the clemency of the house, by a Letter, which was read from the Chair by the Speaker: But all the effect it produced was, an angry motion, That the house would appoint a day to take into consideration the Rights, Liberties and Privileges of the house of commons; and a violent debate thereon; which was suspended only for the sake of deriving fresh matter against him from the Report, then to be made by sir Rowland Gwinn, chairman of the said committee.

The Aspersions cast on the last House of Commons voted scandalous, villainous &c.: And the said Colepeper committed to Newgate.] Accordingly, when the house had confirmed the first Resolution in favour of Bliss: An Amendment was offered to the second concerning Colepeper, in these words: "Who was one of the instruments in promoting and presenting the scandalous, insolent and seditious Petition, commonly called the Kentish Petition, to the last house of commons:" And though the said Amendment was liable to many objections (nothing transacted in a former session; or, at least, in a former parliament, being properly cognisable by a new one) it was agreed to without a division: As were also the two following Resolutions, to wit, "That the aspersing the last house of commons or any member thereof with receiving French Money, or being in the interest of France, was a scandalous, villainous, and groundless reflection; tending to sedition, and to create a misunderstanding between the king and his people; that Thomas Colepeper, esq. is guilty of promoting the said scandalous, villainous and groundless reflection upon the said house of commons." And the two following orders, "That the said T. C. esq. be for his said offence committed to Newgate: And that his majesty's attorney-general do prosecute the said T. C. for the said crimes."

Proceedings on the Rights and Privileges of the House of Commons.] The adjourned debate on the motion above specified, was then resumed; and after much altercation, a day was appointed for the purposes therein mentioned. The day came, to wit, the 16th of Feb.: the house resolved itself into a committee: Col. Granville had the chair: many warm speeches were made, which were as warmly answered: and upon the issue, both the committee and the house broke up without coming to any Resolution at all.—On the 19th, however, in consequence of a new motion, to the like effect, the 26th was appointed for the farther consideration of the Rights, Liberties, and Privileges of the house of commons: And on the 24th, the marquis of Hartington, by way of countermeasure, moved, for an instruction to the Committee of the whole house, appointed to sit on that occasion; "That they should also take into consideration, the rights and liberties of all the commons of England;" which was agreed to accordingly.

Thus the two parties were so far set upon even ground; and it was apparent that in this contest neither would be able to obtain any considerable advantage over the other: and, indeed, unless a large body of Tories withdrew before the house was resumed, which for want of sufficient lights, cannot be ascertained, we ought to conclude, perhaps, that the party split upon a measure which some foresaw would be unprofitable: for, according to the Journals, the attendance on that side was, by no means, suitable to the stress which seemed to be laid upon it: for those who did attend, though, at first, so earnest for having the day appointed, were so ill satisfied with the issue of it, that they were for postponing the Report; while their antagonists, on the contrary, insisted on its being made immediately, and upon a division of the house, carried their point by 102 voices against 62.

The said Report consisted of five Resolutions; to wit: Resolved, 1. "That it is the opinion of this Committee, That to assert the house of commons is not the only Representative of the Commons of England tends to the subversion of the Rights and Privileges of the house of commons, and the fundamental constitution of the government of this kingdom. 2. That to assert the house of commons have no power of Commitment but of their own members, tends to the subversion of the constitution of the house of commons. 3. That to print or publish any Books or Libels, reflecting upon the proceedings of the house of commons, or any member thereof, for or relating to his service therein, is a high violation of the Rights and Privileges of the house of commons. 4. That it is the undoubted Right of the people of England, to Petition or Address to the king, for the calling, sitting, and dissolving of parliaments, or for the redressing of grievances. 5. That it is the undoubted right of every subject of England, under any accusation, either by Impeachment or otherwise, to be brought to a speedy Trial, in order to be acquitted or condemned:" and these Resolutions were severally confirmed by the house. Ralph.

Message concerning an Union with Scotland.] Feb. 28 The king being very sensible, that the Protestant Succession would not be so easily settled in Scotland, where it might be retarded, on purpose for a claim to an independence on the crown of England, and that nothing was more seasonable at this juncture, than an union of the two kingdoms, sent the following message

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to the house of commons, being disabled from coming to the house of peers by a fall from his horse two days before:

"William *R.* His majesty, being at present hindered by an unhappy accident from coming in person to his parliament, is pleased to signify to the house of commons, by message, what he designed to have spoken to both houses from the throne. His majesty, in the first year of his reign, did acquaint the parliament, that commissioners were authorized in Scotland to treat with such commissioners as should be appointed in England, of proper terms for uniting the two kingdoms, and at the same time expressed his great desire of such an union. His majesty is fully satisfied, that nothing can more contribute to the present and future security and happiness of England and Scotland, than a firm and intire union between them; and he cannot but hope, that, upon a due consideration of our present circumstances, there will be found a general disposition to this union. His majesty would esteem it a peculiar felicity, if, during his reign, some happy expedient for making both kingdoms one might take place; and is therefore extremely desirous, that a treaty for that purpose might be set on foot; and does, in the most earnest manner, recommend this affair to the consideration of the house." Burnet, Boyer, Tindal.

The King's Illness, and Fall from his Horse.] The king seemed all this winter in a fair way of recovery; he had made the royal apartments in Hampton-Court very noble, and he was so much pleased with the place, that he went thither once a week, and rode often about the park. But on the 21st of Feb. riding from Kensington, as he was putting his horse to the gallop, the horse fell, and he, being then very feeble, fell off, and broke his right collar-bone. Upon this accident, he was carried to Hampton-Court, where the bone was set by M. Ronjat, Serjeant-surgeon to the king, who having felt his pulse, told him, that he was feverish, and that any other person in his condition would be let blood. The king answered, as for that, he had now and then had a head-ach and some shivering fits for a fortnight past, and had that very morning a pain in his head before he went out a hunting. In the afternoon the king finding himself easy, contrary to advice, returned to Kensington and slept almost all the way in his coach. He came to Kensington about nine at night with his right arm tied up, and, as he entered the great bed-chamber, he saw Dr. Bidloo, to whom he said, I have got a hurt in my arm; pray come and see it: and soon after added to this effect: I was riding in the park at noon, and while I endeavoured to make the horse change his walking into a gallop, he fell upon his knees. Upon that I meant to raise him with the bridle, but he fell forwards on one side, and so I fell with my right shoulder upon the ground. It is a strange thing, for it happened upon a smooth level ground. Ronjat says, there is a little bone broken, and indeed I feel some pain towards my back. At the same time he pointed with his left hand to the shoulder blade, saying, 'There, there.' Dr. Bidloo, finding his pulse in good order, dissuaded him from bleeding; and, after viewing the affected part, told him that the right channel-bone was broke obliquely a little below its juncture with the shoulder-blade. Then the king asked, If it was well set? And, the doctor answering No, he said to Ronjat, justify yourself, M. Ronjat, is it well set? Ronjat replied: It was well set; but that the jolting of the coach, and the loosening of the bandage, had occasioned a disunion. After the fracture was taken care of, the king went to bed, and slept the whole night so soundly, that the gentlemen, who sate up with him, said they did not hear him complain so much as once.

Bills passed by Commission.] March 2. The king seemed in a fair way of doing well till Sunday, March the 1st, a defluxion fell upon his knee, which was a great pain and weakness to him, and thought to be a very ill symptom. He took it as a warning for the dispatch of public affairs, and therefore the next morning this message was sent from the house of peers to the commons:

"Mr. Speaker; The king hath granted a commission under the great seal for passing the royal assent to those bills, which have been agreed to by both houses of parliament; and, the lords commissioned by the king do desire, that this house would presently come up with their Speaker, to be present at the passing thereof." Then the Speaker with the house went up, and the Lord-Keeper acquainted both houses, that his majesty by an unhappy accident had been prevented from coming in person, and had granted a commission to several peers for passing the Bills therein mentioned; and then the royal assent was given by commission to these and some other bills: 'An Act for the Attainder of the pretended Prince of Wales of High Treason.' Also, 'An Act that the solemn affirmation and declaration of the people, called Quakers, shall be accepted instead of an oath in the usual form.'

Death of the King.] On the 3d of March, the king had a short fit of an ague, which he regarded so little, that he said nothing of it; and the next day he seemed so well recovered of the lameness in his knee, that he took several turns in the gallery at Kensington; but at length, finding himself tired and faint, he sate down on a couch, and fell asleep, which probably occasioned that shivering fit, which soon after seized him, and which turned to a fever, accompanied with vomiting and a looseness. Upon this, the king thought proper to send for sir Tho. Millington, who attended him to the last moment, as did also sir Rd. Blackmore, Dr. Hutton, Dr. Hannes, Dr. Brown, Dr. Lawrence, sir Theodore Colladon, Dr. Bidloo, and others of that faculty, who administered several remedies to him, that gave him great relief. He continued indifferently well till the 5th, when his vomiting and looseness returned

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so violent upon him, that he refused to take any sustenance till two o'clock the next morning, when he drank a cup of chocolate, and soon after took a sleeping-draught, which had that good effect, that he rested for three hours after. In the forenoon he took some broth and a cordial, and found himself somewhat easier, though excessively weak. His mind was so fixed upon the public interest, that he immediately ordered another Commission for passing the Malt and Abjuration Bills that were ready for his assent; and, because he was now so weak, that he could not write his own name, a stamp was prepared, for his signing the Commission, which, according to form, must be signed by the king, in the presence of the lord-keeper and the clerks of the parliament. They came to the king when his fit began, and staid some hours before they were admitted. In the mean while, some of the house of commons moved for an adjournment, though the lords had sent to desire them not to adjourn for some time. By this means the party hoped, that the Bill of Abjuration would be lost. But, as it was contrary to all rules to adjourn, when such a Message was sent to them by the lords, they waited till the king had signed the commission, by which the royal assent was given to the Abjuration-Bill in the last day of the king's life. Burnet, Boyer, Tind.

On the same day, about five in the morning, the earl of Albemarle, who had been sent over to Holland to put things in readiness for an early campaign, arrived at Kensington, and immediately went to wait upon the king, who, being willing at that time to be retired, bid him go and take some rest, and come to him some hours after. The earl attended accordingly, and gave so good an account of the posture of affairs in Holland, that, if matters of that kind could have wrought on the king, it must have revived him; but the coldness, with which he received it, shewed how little hopes were left. Soon after he said, 'Je tire vers ma fin' (I draw towards my end.)

In the evening an extraordinary council was called, before whom the physicians appeared frequently, and at last acquainted them by sir Thomas Millington, that all their hopes, under God, depended upon the use of those remedies, which they had already prescribed, and upon his majesty's taking some little sustenance. Upon this the duke of Devonshire, and several other noblemen, desired Dr. Bidloo to press him to take something. Accordingly Dr. Bidloo spoke to him in Dutch, and he made answer, 'Lift me up, and I will take as much as 'I can of what is thought proper.' Then he took some of Raleigh's cordial, with the julep, and soon after some hot claret. About the same time he thanked Dr. Bidloo for the great care he had taken of him, adding to this effect, 'I know that you and the other learned physi-'cians have done all that your art can do for 'my relief; but, finding all means ineffectual, I 'submit.' About three o'clock on Sunday morning he called again for Dr. Bidloo, and complained to him, that he had had a bad night, and could not sleep. Upon that he sate up, and leaned on him, saying, 'I could sleep 'in this posture: sit nearer me, and hold me 'so for a little time.' In this posture he slept about half an hour, and, when he awaked, said, 'You can bear me up no longer.' Then he was held up by Mr. Freeman on the right side, and Mr. Sewell on the left, both of them having pillows in their arms. Soon after the physicians gave notice, that they were apprehensive he had not long to live.

The archbishop of Canterbury and the bishop of Salisbury attended him from Saturday morning, and did not leave him till he died. The Archbishop prayed some time with him on that day, but he was then so weak, that he could scarce speak, but gave him his hand, as a sign, that he firmly believed the truth of the Christian Religion, and said, he intended to receive the Sacrament. His reason and all his senses were intire to the last minute. About five on Sunday morning he desired the Sacrament, and went through the office with great appearance of seriousness, but could not express himself. The lords of the privy-council, with many of the nobility and gentry, attended in the adjoining apartments, and several of them were called in at times, to whom he spoke a little, and then they withdrew. Amidst all their tears the king did not betray the least concern or fear of death, but laboured to speak with ease and chearfulness; and particularly when he talked a little to lord Overkirk, he raised his voice, whom he thanked for his long and faithful services. He took leave of the duke of Ormond and others, and delivered to the lord Albemarle the keys of his closet and scrutore, telling him, that 'he knew what to 'do with them.' After seven o'clock, he took Dr. Bidloo by the hand, and, breathing with great difficulty, asked him, 'If this could last long?' The doctor answering 'No,' he asked again, 'How long?' To which the doctor replied, 'An hour, or an hour and half; though 'you may be snatched away in the twinkling of 'an eye.' After that, while the doctor was feeling his pulse, the king took him again by the hand, saying, 'I do not die yet; hold me fast.' Having taken a little of the cordial potion, he faintly inquired for the earl of Portland, who immediately came to him, and placed his ear as near as he could to the king's mouth; but, though his lips were seen to move, his lordship was not able to hear any distinct articulate sound; so the king took him by the hand, and carried it to his heart with great tenderness. He was often looking up to heaven in many short ejaculations. Between seven and eight o'clock he began to rattle in his throat, when the commendatory prayer was said for him; and, as it ended, he expired (March 8) in the arms of Mr. Sewell, one of the pages of the back stairs, in the 52nd year of his age, having reigned 13 years and one month wanting five days.

APPENDIX.

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APPENDIX

TO

VOL. V.

Nº I.

Some OBSERVATIONS concerning the regulating of Elections for Parliament, found among the Earl of Shaftsbury's Papers after his Death, and now recommended to the Consideration of this present Parliament. [That is to say, the Convention Parliament which met on the 22nd of January 1688, for it was not till then that these OBSERVATIONS were made public.*]

THE parliament of England, is that supreme and absolute power, which gives life and motion to the English government. It directs and actuates all its various procedures; is the parent of our peace, defender of our faith, and foundation of our properties; and as the constitution of this great spring, and primum mobile of affairs, is in strength and beauty, so will also all acts and performances which are derived from it, bear a suitable proportion and similitude. For whether the constituting members of this great body be such, as may give it the denomination of 'sanctum indoctum' or 'insanum,' (by which epithets some former parliaments have been known and distinguished) such will also be, all the acts and statutes which are made by them, each naturally wearing the character and likeness of that to which it owes its being. This great council bears a date, coævous perhaps with the originals of our government, and was constituted with sufficient prudence and caution, with relation to the innocence and ignorance of the times and people then in being. It was then, that a deed of three inches square, was sufficient to convey away twenty good manors and lordships. But subtility and cunning having now made some bolder advances into the world, we are forced to alter our measures, and instead of inches to take ells. It seems therefore necessary, as in things of smaller concernment, so most especially in matters of so much greater moment, (as is the settling and fortifying our parliament) so to erect its bulwarks and rampiers, that the most vigorous attacks of fraud and corruption may make no breaches or inroads into it. It is here, our care and diligence ought to be applied with the greatest exactness; for as our laws and government are established, we can derive our happiness or misery from no other source. It is from the fruit of this great council that we must expect our nutriment, and from its branches our protection; I hope therefore it may not seem over officious, if, with the skilful gardener, I do open and expose the roots of this great tree of the commonwealth, with an intent that every branch and fibre may with the greater ease and conveniency, be so trimmed and laid, that no defects or redundencies may continue; but that every individual of this great body may happily conspire to produce that peace and tranquillity in the nation, which may be expected from their councils, and a well constituted government. It seems then reasonable to believe, that the privilege of sending representatives to parliament, (though grounded upon a natural and fundamental right in the people) was at first immediately derived from the king; for that, where histories and records begin to transmit memorials to succeeding ages, we find him sending his writs directed to such persons, towns, or vills, which he thought most considerable within the kingdom; by virtue of which writs, elections were accordingly made, and representatives returned to parliament. That the king's prerogative does still extend to grant this franchise to such other towns or villages as he shall think fit, I cannot affirm, because some learned in the law assure us it cannot legally be done, but by act of parliament. But others are again of a contrary opinion, as was adjudged in the case of Duncannon and Newark. It is certain, that parliamentary matters were never settled otherwise than by act of parliament, as appears by several statutes in such cases made; and we also find the privilege of sending members to parliament, given to several places by act

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* Somers' Tracts, 1 coll. vol. i. p. 63.

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of parliament, which had been unnecessary, could the king alone have granted it by any other method. It is, moreover, a thing of very dangerous consequence, to have such a power lodged in the king alone; for then he might thereby infranchise what number of vills he pleases, and by the same power place the election of their representatives in a select number, such as he should always have the power to direct and appoint; which would be in effect to chuse his own parliament, and thereby to make or repeal what laws he pleases. Wherefore I conceive this point ought now to be settled, so as for the future to obviate all such inconveniences which might otherwise ensue. Another thing, which also requires the care of this great council, is to limit and restrain the exorbitancies of a quo warranto, so that the electing boroughs may have their privileges and immunities secured, from the judgment of a corrupt judge, who derives his being, and holds his judicial breath only 'ad voluntatem domini.' If this grievance be not obviated by some good law, a king may as well destroy all the old boroughs, as erect new ones, to the inevitable overthrow of our laws and government. In the next place, I conceive it may become the prudence of this parliament (from which we may expect the foundations of our happiness will be so laid, as to become impregnable against all the future assaults of an invading tyranny) to look into the constitutions and customs of such boroughs which have right to elect, and which in several particulars, seems to require a touch of the supreme authority to set them right. The first inconvenience they labour under, is the variety of their respective titles; some claiming to elect by prescription, others by grant; some again by a select number, others by the populacy; some by the magistrate and burgesses, others by the magistrate, burgesses, and freemen; others again by the magistrate, burgesses, freemen, and commonalty, and some also in respect of their ancient borough houses only; the rest of the town, which is the much more considerable part, being excluded. The grievance which grows from this difference of title in several boroughs, is often ambiguity and uncertainty of title in the same borough; for sometimes the select number contends with the community, one borough house with another, &c. And from hence it is, that we have usually so many petitioners in each parliament, the magistrate not knowing which of right ought to be returned. Nor can a committee of elections ever settle their respective titles, by a final determinative judgment: for we find it often giving an opinion upon one and the same title, and in the same borough, differently, as favour and power can make the stronger interest. All this may be remedied by an act, which should give one and the same new title to all the electing boroughs in England and Wales, by which alone, they should all, for the future, claim to send members to parliament; thereby settling the electing power in such persons, (whether they be a select number, or the whole populace) as in prudence should be thought most convenient. The design of chusing the members of parliament by the people, was that no laws should be made, no monies raised, nor any course pursued, by those who sit at the helm, but with the steerage and direction of the people, by their representatives. Now by all the laws and rules of representation, no town, city, or body of people, can be represented without a vote in the choice of their representative. That the parliament, as now constituted, is no equal representative of the people, is notorious; in that several boroughs, so inconsiderable, that they contain not above three or four houses, send each of them two representatives to parliament, whilst others (which contain an hundred times their number of houses, people, trade, and wealth) have no representative at all in the management of public affairs. So also the county of Cornwall sends no less than forty three members to parliament, whilst the city, and whole county of Chester sends but four, and the twelve counties of Wales but twenty-four amongst them all. From this inequality of representation, it follows, that acts are often made which redound to the prejudice of the whole body of the people, merely to advance the gain and advantage of some particular places; as was that which prohibited the importation of Irish cattle, being carried principally by the supernumerary votes of some counties, which have more electing boroughs, than, upon a just and equal dividend, do fall to their share; and these being generally of a dry and barren soil, are thereby chiefly adapted to the breeding of cattle: which benefit would have been diminished by an inlet of beasts from Ireland. This inconvenience may be easily removed, by depriving towns of less note of this franchise, and bestowing it upon others of greater consideration in the same, or in other counties, which most want it, as do those of Cambridge, Bedford, Hertford, Huntingdon, &c. Where the electing right is committed to a select number, I think it were desirable, that the electors should be chose annually, and not be tenants for life in their electorate; this would in a great degree prevent pre-engagements, and corruption, which often happens where a power by long continuance in one person, is apt to stagnate and putrify. The great number of electors in popular boroughs, and in chusing knights of the shire, requires to be regulated and limited, and the power of election to be fixed in the optimacy only. My reasons for this are, that among the electing crowd, the majority is generally of a mean and abject fortune in the world, and thereby subject not only to disorders and quarrels, but to be misguided also by their ignorance, and total want of that discerning faculty, which electors in such weighty concerns ought to have; they are moreover under the temptation of being corrupted and seduced by the inveiglements of a little money, or a pot of

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ale: whilst those whose circumstances are more enlarged, have their thoughts so likewise; being thereby raised beyond such low allurements, and rendered more careful how, and into whose hands, they dispose of this great trust, the breach whereof might at once rob and deprive them of that their substance, which has been the acquisition perhaps of some ages. It was for those and several other reasons mentioned in the preamble, that by the Statute of 8 Henry vi. c. 7., it was enacted, that no knight of the shire should be chose by any, who had not a freehold of the clear yearly value of 40*s.* per annum, which was then as much in value as 40*l.* per annum is now, or has been, since the finding out of the American treasure, and the enlargement of our trade. And I think it but reasonable that as the value of money falls, so the wealth of the electors should rise, and that electing votes in the county should again be limited to such only, who now have lands and tenements to that value, which 40*s.* per annum bore in those times when this act was made. If this particular were thus regulated, the numbers at the county elections would be reduced, probably to a fourth part of what they now are, and thereby the unreasonable expence in entertaining so great a crowd, and the great dangers which may accrue from such an ungovernable multitude, would be in a great degree avoided and prevented. As the persons electing ought to be men of substance, so in a proportioned degree ought also the members elected. It is not safe to make over the estates of the people in trust to men who have none of their own, lest their domestic indigencies, in conjunction with a foreign temptation, should warp them to a contrary interest, which in former parliaments we have sometimes felt to our sorrow. Wealth and substance will also give a lustre and reputation to our great council, and they security to the people; for their estates are then pawned, as so many pledges for their good behaviour, becoming thereby equal sharers themselves in the benefit or disadvantage which shall result from their own acts and councils. Thus a good estate may be a good security to engage faith and honesty; but he who sits at the helm of government, ought not only to be a graduate in fortune, but in prudence and experience also. To me it seems extremely irregular, to see the unfledged youth make his first advances into the world, in the quality of a burgess for parliament, chosen upon no other account, but because it was his fortune, by his father's early death, to become the landlord of a neighbouring borough, or is perhaps it's best customer, deriving from thence the necessaries of a numerous family. Forty years (whereof twenty-five are generally spent in childhood and vanity) seem to be few enough to entitle any one to the grandeur and gravity of an English senator; and why so many, who seem by their greenness to be as yet but a novelty to the world, should be admitted to a place in this great council, whilst those of greater age, wisdom, and experience must be excluded, I do not understand. By the 1 H. v. ch. 1. it is enacted, that every knight of the shire should be chosen out of such who are resident in the county, and every citizen and burgess, from amongst the citizens and burgesses of the cities and boroughs electing. How far this act ought to be observed, will be worth consideration; for a confinement in this case, seems to be an abridgement of a free choice, and it often happens, that men of the greatest knowledge and experience in the affairs of the kingdom, have their abode principally in the metropolis, especially such of the long robe, who by their profession are obliged to it. But the non-observance of this act on the other side, has been often the occasion that courtiers have bolted into country-boroughs, and by the strength of their purse, and liberal baits, have so seduced these poor rural animals, as to obtain an election from them, though to the ruin and overthrow of their own laws and liberties. The chusing of such men to serve in parliament, might probably be obviated, by an act prohibiting the expence of any money by treats or otherwise, in order to be elected, it being only to these indirect methods, that such persons usually owe their success. But when all is done, it will be found difficult (though with the greatest art) to bring an old, irregular structure into a convenient uniformity, otherwise than by razing it to the ground, and erecting a new pile by some better contrived design. For although all the defects and irregularities in the election of members for parliament before-mentioned, should be removed and altered, yet there still remains something in the very constitution of this part of our government, which is not so agreeable to a curious thought. A true and perfect model to build by, is what I dare not pretend to give, yet that which follows may afford some hints and assistance to a better fancy and judgment. In respect then, that every individual person in the nation, has a natural right to vote in this great council; but this being impracticable, they are forced to do it by proxy (that is) by devolving this right upon certain common representatives indifferently chosen, for certain select numbers and communities of men, in which the whole body of the people is, or ought to be comprehended; and whereas, every pater-familias, or house-keeper, is a natural prince, and is invested with an absolute power over his family, and has by necessary consequence, the votes of all his family, man, woman, and child included in his; let then the sheriff's precepts be directed to every parish within his county, which the next Sunday following the receipt thereof, may be publicly read after the forenoon sermon in church; thereby giving notice to all the house-keepers in the parish, to meet at a convenient place, and certain hour the day following, in order to chuse an elector for the county. Let also the church-wardens of each parish prepare a list of eight or ten of the most eminent persons for

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wealth, gravity, and wisdom in their parish; this list to be brought the next day to the place of election, to this purpose, that every house-keeper do, by a dot with a pen, adjoined to the person's name whom he inclines to elect, declare his choice; and that by the plurality of dots, the elector be returned by the churchwardens to the sheriff. This done in each parish, let the sheriff prepare a list in the same manner, of the names of all the gentry in the county, who are each worth in lands and moveables at least 10,000*l.* all debts paid, and not under forty years of age; which being in readiness, let all the representatives of parishes, chosen as aforesaid, repair to the county town the very next day after the parish election is over, and there proceed to elect out of the sheriffs list, seven, nine, or eleven members to serve in parliament, or so many as upon a just dividend, shall be thought expedient to compleat the number of members, which are to act in this great council. Before the electors proceed to chuse for the county, it might probably be convenient to administer an oath to this purpose: That their vote is no way pre-engaged; and that they will chuse, without favour or affection, such members as in their conscience they do believe most fit to serve in parliament. And that to the members elected, upon their admission to the house, this oath, together with the others in use, be administered, viz. That they are worth 10,000*l.* all their debts paid; and that directly, or indirectly, they did not expend any money, or gratuity whatsoever, in order to their election; and that they neither have, nor will receive any gratuity whatsoever, upon the account of their vote in parliament; but that they will in all matters that shall come before them, act uprightly according to their conscience and understanding, without any private design, favour, or affection to any. That to prevent the inconveniencies of fear and favour in electing, the method be such, that none may know on whom the electors votes were conferred; and it may be thus performed. Suppose a room with two opposite doors, and a table in the middle, on which the list shall be spread. All the electors being at one door, let them go in one by one, each writing down his dots, and going out of the room at the other door before another comes in; or if this may prove tedious, it is only placing more tables in the room, with every one a list on it, and so many may then be admitted in at once, as there are lists, which will make greater dispatch, and yet no discovery, in that every list is upon a separate table. To prevent also all fraud and indirect practice, it will be convenient that the officers concerned in the elections, both in parishes, and in the county, be upon their oaths. It is also fit that a limited allowance be made for the expence of the day, which is to be in parishes, at the parish charge, and in the county town, at the charge of the county. If any controversy arise about elections, either in the parishes or counties, (which in this method can scarcely be supposed) it may be decided by the votes of the remaining persons upon the list, who pretend to no election. If several persons happen to have an equal number of votes, it shall be determined by lot. If any person, from any part of England, shall send his name to any particular county, to be inserted in their list, as a person qualified to serve in parliament; it may be done; but none to stand candidate, in more than one list at a time, lest he should be chosen in both counties, and so occasion the trouble of a new election. That the same list of candidates shall continue till the dissolution of the parliament, if it sits not above three years; and upon the intermediate death or removal of any of the members for the county, then he who had the next majority of votes upon the list, to succeed in his place, without further trouble or charge of election. By this method, the parliament will be a perfect representative of the whole body of the people, and also of every numerical person in the kingdom. Here can be no partial (and consequently prejudicial) acts made by separate interests and factions: None will sit in this great council, but men of gravity, wisdom, integrity, and substance: No pensionary members; no unfair elections; no foul returns; no petitioners kept in attendance till a dissolution; no quo warrantos to destroy the natural fundamental rights of the people; no room for corruption, bribery, and debauchery, either in the electors, or the members elected; no patrimonies wasted in the extravagancies of an election; no bankrupts shrouding themselves under the shelter of a parliamentary privilege; no unruly rabbles, tumults, factions, and disorders in election, amongst the commonalty; no heats and animosities amongst the gentry, often caused by their violent competitions: But all will be managed with that evenness, justice, and temper, that nothing can more effectually conduce to the securing of our liberties and properties, the grandeur of our government, and the honour of our nation, than such an establishment.

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No II.

A Debate upon the Quære,* whether a King elected and declared by the Lords spiritual and temporal, and Commons assembled at Westminster 22d of January, 1688, coming to and consulting with the said Lords and Commons, doth not make as compleat a Parliament, and legislative Power and Authority, to all Intents and Purposes, as if the said King should cause a new Summons to be given and new Elections to be made by Writs.

THAT the highest and supreme court of this nation (according to its ancient constitution) is the parliament, I need not now labour to make out; the present business being to find out and discover the substantial and real parts of a parliament, for thereby shall we be satisfied touching the question in hand. A parliament (as sir Edw. Coke, in his jurisdiction of courts, fol. 1. tells us,) consists of the king's majesty (sitting there as in his politick capacity) and of the three estates of this realm (that is to say) 1st, the lords spiritual, as archbishops and bishops: 2dly, the lords temporal, as dukes, marquisses, earls, viscounts and barons; 3rdly, the commons of the realm, (that is) knights of shires, citizens and burgesses. As to the lords both spiritual and temporal, sir Edward Coke in the same place tells us, that every one of them being of full age when a parliament is to be held, ought of right to have a writ of summons to come to that parliament. As to the commons, he says they are respectively elected by the shires or counties, cities and boroughs by force of the king's writs. Crompton, in his jurisdiction of courts, fol. 1. says, the high court of parliament is the highest court in England, wherein the king himself sits in person; and comes thither at the beginning of the parliament, and at the end thereof, and at any other time when it pleaseth him during the parliament. To this court come all the lords of parliament, as well spiritual as temporal, and are severally summoned thither by the king's writ. There is a writ also sent to every sheriff of England and Wales, to elect knights for parliament, &c. saith that author. But the lords and commons assembled at Westminster 22d of January 88. were not summoned thither by the king's writ, and therefore, as is objected, though the king afterwards comes to them, yet such king, lords and commons cannot be a parliament. In answer to which, and to demonstrate whether upon the king's coming to and consulting with them, the king and them make a parliament, I must premise that in extraordinary cases, such as of which there is no direct example, we must take our directions from the resolutions and practices in such cases as come nearest, and are most like to them; and by consequences from thence make our resolutions as may be most agreeable to reason. It is generally admitted, that in an hereditary kingdom, if the king should die without any heir either lineal or collateral, the crown in that case would devolve, or as it were escheate to the whole people and nation; and that hereupon the estates and representatives of such a nation may dispose of the crown to whom they please, or quite alter and change the government into what form they think fit. This hath been frequently adjudged and practised, one instance whereof was in the emperor Charles the Gross, who dying without any heir, the kingdoms which were under him did severally chose themselves kings: France chose Charles the simple: in Italy some chose Berengarius, and some Guido; and the Germans chose Arnolph duke of Bavaria for their emperor. Ferdinand king of Portugal dying without lawful heir, the estates of that kingdom assembled themselves at Goimbre, and elected John the late king's bastard for their king, and in their decree of election it is recited, that king Ferdinand died without any lawful issue or kindred, whereby according to the law of nations, it was lawful for them to chuse who they pleased for their king or governor. In like manner it is where a king doth abandon, forsake or desert his government, by going out or flying out of his kingdom without appointing any guardian to protect and take care of his people in his absence, whereby the throne is become vacant; in such a case, the estates of such a people may appoint another king or governor. And to come close to our present case; king James the second, whether out of fear, or for what other reason it is not material, but away he goes or rather flies out of his kingdom; abandons, forsakes and leaves his people unguarded and undefended, at the mercy of a foreign army, even in the heart of the country; without so much as leaving a guardian or great seal behind him: his great officers and ministers of state flying some one way and some another. What could then be done but was then done? viz. several of the lords spiritual and temporal, many of the knights, citizens and burgesses of a former parliament; the aldermen and divers common council of

* Somers' Tracts, 2 coll. vol. iv. p. 34. See Proceedings of the 11th Feb. 1688.

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our capital city of London, addressed themselves to his highness the prince of Orange, desired him to take upon him the administration of public affairs both civil and military, for the preservation of our religion, rights, laws, liberties and properties, and of the peace of the nation, until the then intended convention of the three estates or great council of the realm: they also desired his highness to send letters subscribed by himself to the lords spiritual and temporal that were Protestants to meet on the said 22d of January, at Westminster, the summons to parliament being always omitted to known popish lords since the Test-Act. And they desired his highness to send the like letters to the several shires, counties, universities, cities, boroughs and cinque ports of the nation, for electing of such number of persons to represent them, and to meet on the said 22d of January, for the purposes aforesaid, as of right were to be sent to parliaments, with directions that such elections should be made by such persons only as according to the ancient custom and laws of right ought to chuse members for parliament: and accordingly such letters were sent, and due notice given, and elections accordingly were made, and the said lords spiritual and temporal, and the knights, citizens and burgesses so elected met on the said 22d of January: and after mature and deliberate consideration, they resolved, That the prince and princess of Orange should be king and queen of England, &c. for their natural lives and life of the longer liver of them, and that the sole and full exercise of the regal power be in the prince only, in the name of both. Now after the prince and princess of Orange are proclaimed king and queen of England as aforesaid, and he comes and consults with the three estates so assembled, I would fain know what is wanting in that assembly to make them a full and complete parliament; or what can be had more than is in this convention of king, lords and commons, if the said king should issue out writs for calling a new parliament? Certainly nothing more can be had material to the essence of a parliament. If the substantial parts of a parliament be, and consist of an assembly or convention or meeting together of the king and the three estates, as I have shewed that it is out of the best authorities we have, the difference of the lords and commons being called by writ or by letter is nothing material since both writ and letter are to the same effect; and in some ancient records it is mentioned that parliaments should be summoned by letters, particularly in king John's great charter in the 17th year of his reign, he promises to summon the bishops, abbots, earls, &c. per literas nostras, by our letters. Orig. Jud. 17. The prince of Orange's not being king at the time of his sending forth his letters matters not, for he was the person to whom the administration of the government was then committed. It is evident, that in many parliaments it was not so material how the king, lords and commons came together, as that they were together. I dare appeal to any man, if the manner of calling together the three estates of the realm by the prince of Orange's letters was not a much fairer proceeding considering the state of affairs, as to the calling of them together, than was in several cases wherein they were never doubted, to be a parliament when joined with a king. I shall instance only a few of many that might be named. Edward the second being imprisoned by his queen, son and nobles, they issue forth writs in the imprisoned king's name to summon the lords, and to chuse knights, citizens and burgesses to meet at Westminster 16th of Jan. 1325. This one would think was pretty hard, and an absolute force upon the king by making use of his name against his will, so that it could not be said to be his act; yet the lords and commons being met, they deposed Edward the second, and declared his son Edw. king, and this new king, and the lords and commons, so (as I may say) irregularly convened together, made several acts of parliament, and have been ever since adjudged a good parliament to all intents and purposes without any subsequent act of confirmation. In like manner Rich. ii. being taken prisoner by Henry duke of Lancaster, the duke issues forth writs in the king's name (the king then in prison) to summon the lords and to elect representatives, for the people, to meet at Westminster 13 of Sept. 1399. These being met by this irregular summons they depose Richard ii. and declare the duke of Lancaster king; and that the new king, and the lords and commons so irregularly convened, being joined together, were and are to this day adjudged, deemed and taken to be a good parliament to all intents and purposes, without any act of confirmation by any subsequent parliament. The lords and commons assembled at Westminster, 25th of April, 1660, were convened by writs in the name of the keepers of the liberty of England, who were usurpers; yet when king Charles the second came to them, and they received him as king, he and they together were adjudged a parliament, and they enacted that they should be so taken, and they made many laws, which immediately were put in execution; and they continued as a parliament, until 29th of December following, which was for above eight months; but indeed most or all those acts were afterwards confirmed by a subsequent parliament convened by the king's writs in May 1661: but that confirmation, according to many good judgments, was rather to satisfy some scrupulosity than out of necessity, most of the said acts having in great measure had their effects before the subsequent confirming parliament began. If upon the prince of Orange's being declared and proclaimed king he comes to the convention of lords and commons assembled at Westminster; if the same number of lords be summoned thither that of right ought to be summoned to parliament, if the same number of knights, citizens and burgesses be duly chosen, as ought

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to be chosen, to represent in parliament, then consequently there are all the substantial and essential parts of a parliament met together, and being so, where's the necessity, where's the advantage, where's the prudence to dissolve these and thereby give new trouble of new summons, of new elections, lose a great deal of time, suffer irrecoverable loss and damage to Ireland and our allies abroad; and after all, at the next meeting, be but where we now are, as to the essential parts of a parliament, there being nothing more to be had at any other time, but what we have already. I can see no material difference as to the making of a parliament, whether the king come to the lords and commons being assembled together and join with them, or the king, by his writ or letters call them to him: and therefore I conclude, if the prince of Orange, after he is declared and proclaimed king, doth come to the lords and commons now assembled at Westminster, and advise with them, in that instance that the king so comes and advises with them, they will be as good a parliament as if he should issue out new writs of summons, and they should meet again by force thereof.

N° III.

The Earl of SUNDERLAND's Letter to a Friend in the Country, plainly discovering the Designs of the Romish Party, and others, for the subverting of the Protestant Religion, and the Laws of the Kingdom.

Licensed and Entered, March 23, 1689.*

TO comply with what you desire, I will explain some things which we talked of before I left England. I have been in a station of great noise, without power or advantage whilst I was in it, and to my ruin now I am out of it. I know I cannot justify myself by saying, though it is true, that I thought to have prevented much mischief; for when I found that I could not, I ought to have quitted the service: neither is it an excuse that I have got none of those things which usually engage men in public affairs: my quality is the same it ever was, and my estate much worse, even ruined, though I was born to a very considerable one, which I am ashamed to have spoiled, though not so much as if I had encreased it by indirect means. But to go on to what you expect: the pretence to a dispensing power being not only the first thing which was much disliked since the death of the late king, but the foundation of all the rest, I ought to begin with that, which I had so little to do with, that I never heard it spoken of till the time of Monmouth's rebellion, that the king told some of the council, of which I was one, that he was resolved to give employments to Roman Catholics, it being fit that all persons should serve who could be useful, and on whom he might depend. I think every body advised him against it, but with little effect, as was soon seen: that party was so pleased with what the king had done, that they persuaded him to mention it in his speech at the next meeting of the parliament, which he did, after many debates whether it was proper or not, in all which I opposed it, as is known to very considerable persons, some of which were of another opinion, for I thought it would engage the king too far, and it did give such offence to the parliament, that it was thought necessary to prorogue it. After which the king fell immediately to the supporting the dispensing power, the most chimerical thing that was ever thought of, and must be so till the government here is as absolute as in Turkey, all power being included in that one. This is the sense I ever had of it, and when I heard lawyers defend it, I never changed my opinion or language: however it went on, most of the judges being for it, and was the chief business of the state, till it was looked on as settled. Then the ecclesiastical court was set up, in which there being so many considerable men of several kinds, I could have but a small part; and that after lawyers had told the king it was legal, and nothing like the high commission court, I can most truly say, and it is well known, that for a good while I defended Magdalen college purely by care and industry, and have hundreds of times begged of the king never to grant Mandates, or to change any thing in the regular course of ecclesiastical affairs, which he often thought reasonable, and then by perpetual importunities was prevailed upon against his own sense, which was the very case of Magdalen college, as of some others. These things which I endeavoured, though without success, drew upon me the anger and ill will of many about the king. The next thing to be tried, was to take off the penal laws, and the tests, so many having promised their concurrence towards it, that his majesty thought it feasible, but he soon found it was not to be done by that parliament, which made all the catholics desire it might be dissolved, which I was so much against, that they complained of me to the king, as a man

* Somers' Tracts, 1 coll. vol. iii. p. 602.

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who ruined all his designs by opposing the only thing could carry him on; liberty of conscience being the foundation on which he was to build. That it was first offered at by the lord Clifford, who by it had done the work, even in the late king's time, if it had not been for his weakness, and the weakness of his ministers: yet I hindred the dissolution several weeks, by telling the king that the parliament in being would do every thing he could desire, but the taking off the penal laws and the tests, or the allowing his dispensing power; and that any other parliament, though such a one could be had as was proposed, would probably never repeal those laws; and if they did, they would certainly never do any thing for the support of the government, whatever exigency it might be in. At that time the king of Spain was sick, upon which I said often to the king, that if he should die, it would be impossible for his majesty to preserve the peace of Christendom; that a war must be expected, and such a one as would chiefly concern England; that if the present parliament continued, he might be sure of all the help and service he could wish; but in case he dissolved it, he must give over all thoughts of foreign affairs, for no other would ever assist him, but on such terms as would ruin the monarchy; so that from abroad, or at home, he would be destroyed, if the parliament were broken, and any accident should happen, of which there were many, to make the aid of his people necessary to him. This and much more I said to him several times privately, and in the hearing of others; but being overpowered, the parliament was broke, the closetting went on, and a new one was to be chosen; who was to get by closetting, I need not say; but it was certainly not I, nor any of my friends; many of them suffered, who I would fain have saved; and yet I must confess with grief, that when the king was resolved, and there was no remedy, I did not quit, as I ought to have done, but served on in order to the calling another parliament. In the midst of all the preparations for it, and whilst the corporations were regulating, the king thought fit to order his Declarations to be read in all churches, of which I most solemnly protest, I never heard one word, till the king directed it in council; that drew on the petition of my lord the arch-bishop of Canterbury, and the other lords the bishops, and the prosecution, which I was so openly against, that by arguing continually to shew the injustice and imprudence of it, I brought the fury of the Roman Catholics upon me to such a degree, and so unanimously, that I was just sinking; and I wish I had then sunk: but whatever I did foolishly to preserve myself, I continued still to be the object of their hatred, and I resolved to serve the public as well as I could, which I am sure most of the considerable Protestants then at court can testify, and so can one eminent man of the country, whom I would have persuaded to come into business, which he might have done, to have helped me to resist the violence of those in power; but he despaired of being able to do any good, and therefore would not engage. Some time after came the first news of the prince's designs, which were not then looked on as they have proved, nobody foreseeing the miracles he has done by his wonderful prudence, conduct, and courage; for the greatest thing which has been undertaken these thousand years, or perhaps ever, could not be effected without virtues hardly to be imagined till seen nearer hand. Upon the first thought of his coming I laid hold of the opportunity to press the king to do several things which I would have had done sooner; the chief of which were to restore Magdalen college, and all other ecclesiastical preferments, which had been diverted from what they were intended for, to take off my lord bishop of London's suspension, to put the countries into the same hands they were in some time before, to annul the ecclesiastical court, and to restore entirely all the corporations of England: these things were done effectually, by the help of some about the king; and it was then thought I had destroyed myself, by engaging against the whole Roman Catholic party, to such a height as had not been seen; they dispersed libels of me every day, told the king that I betrayed him, that I ruined him by persuading him to make such shameful condescensions; but most of all by hindering the securing the chief of the disaffected nobility and gentry, which was proposed as a certain way to break all the prince's measures; and by advising his majesty to call a free parliament, and to depend upon that, rather than upon foreign assistance. It is true, I did give him those councils which were called weak to the last moment he suffered me in his service; then I was accused of holding correspondence with the prince, and it was every where said amongst them, that no better could be expected from a man so related as I was to the Bedford and Leicester families, and so allied to duke Hamilton, and the marquis of Halifax. After this accusations of high treason were brought against me, which, with some other reasons relating to affairs abroad, drew the king's displeasure upon me, so as to turn me out of all without any consideration, and yet I thought I escaped well, expecting nothing less than the loss of my head, as my lord Middleton can tell, and I believe none about the court thought otherwise; nor had it been otherwise, if my disgrace had been deferred a day longer; all things being prepared for it, I was put out the 27th of October, the Roman Catholics having been two months working the king up to it without intermission, besides the several attacks they had made upon me before, and the unusual assistance they obtained to do what they thought so necessary for the carrying on their affairs, of which they never had greater hope than at that time, as may be remembered by any who were then at London. But you desired I would say something to you of Ireland, which I will do in very few words, but exactly

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true. My lord Tyrconnell has been so absolute there, that I never had the credit to make an ensign, or keep one in, nor to preserve some of my friends, for whom I was much concerned, from the least oppression and injustice, though I endeavoured it to the utmost of my power; but yet with care and diligence, being upon the place, and he absent, I diverted the calling a parliament there, which was designed to alter the acts of settlement. Chief justice Nugent, and baron Rice, were sent over with a draught of an act for that purpose, furnished with all the pressing arguments could be thought on to persuade the king, and I was offered 40,000*l.* for my concurrence, which I told to the king, and shewed him at the same time the injustice of what was proposed to him, and the prejudice it would be to that country, with so good success, that he resolved not to think of it that year, and perhaps never: this I was helped in by some friends, particularly my lord Godolphin, who knows it to be true, and so do the judges before named, and several others. I cannot omit saying something of France, there having been so much talk of a league between the two kings. I do protest I never knew of any; and if there were such a thing, it was carried on by other sort of men last summer. Indeed French ships were offered to join with our fleet, and they were refused; since the noise of the prince's design more ships were offered, and it was agreed how they should be commanded if ever desired. I opposed to death the accepting of them, as well as any assistance of men, and can say most truly, that I was the principal means of hindering both, by the help of some lords, with whom I consulted every day, and they with me, to prevent what we thought would be of great prejudice if not ruinous to the nation. If the report is true, of men, ships, and money, intended lately for England out of France, it was agreed upon since I was out of business, or without my knowledge; if it had been otherwise, I believe nobody thinks my disgrace would have happened. My greatest misfortune has been to be thought the promoter of those things I opposed and detested, whilst some I could name have been the inventors and contrivers of what they have had the art to lay upon others; and I was often foolishly willing to bear what my master would have done, though I used all possible endeavours against it. I lie under many other misfortunes and afflictions extreme heavy, but I hope they have brought me to reflect on the occasion of them, the loose, negligent, unthinking life I have hitherto led, having been perpetually hurried away from all good thoughts by pleasure, idleness, the vanity of the court, or by business: I hope, I say, that I shall overcome all the disorders my former life had brought upon me, and that I shall spend the remaining part of it in begging of Almighty God that he will please, either to put an end to my sufferings, or to give me strength to bear them, one of which he will certainly grant to such as rely on him, which I hope I do, with the submission that becomes a good Christian. I would enlarge on this subject, but that I fear you might think something else to be the reason of it, besides a true sense of my faults, and that obliges me to restrain myself at present. I believe you will repent in having engaged me to give you this account, but I cannot the doing what you desire of me.

Nº IV.

A Vindication of the Proceedings of the late Parliament of England, An. Dom. 1689, being the First in the Reign of their present Majesties King William and Queen Mary.*

By John Lord Somers.

I. The proceedings of the late parliament were so fair, so prudent, so necessary, and so advantageous to the nation, to the Protestant interest in general, and in particular to the Church of England, that all true Englishmen must needs acknowledge they owe to the then representatives of the nation, their privileges, their liberties, their lives, their religion, their present and future security from popery, slavery, and arbitrary power, had they done nothing else but enacted the rights and liberties of the subject, and settling the succession of the crown. So that it is now, and perhaps but now, that we may call ourselves the free-born subjects of England, as being fully secured, for ever, by this act, from the heavy and insupportable yoke of arbitrary power, the necessary consequence of a power of dispensing, or suspending of laws, without consent of parliament. —II. Their settling the crown upon the head of a Protestant prince, who is the very centre, the chief prop and pillar of the Protestant religion, secures all Protestants not only at home, but likewise in all other parts of Europe; insomuch that it is upon him only that we ground all our hopes of seeing ere long, Lewis xiv, called to a just account for all his unjust, arbitrary, and tyrannical proceedings against

* Somers' Tracts, 1 coll. v. ii. p. 341.

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his own subjects, as likewise against his injured and weaker neighbours.—III. Their not acting in the least, after the example of their neighbours, against prelacy, but rather favouring it by such acts as fit only episcopal men for public employments, gives all reasonable satisfaction to the Church of England; without any just offence, either given to the dissenters, who, under the present government, enjoy, to their own hearts desire, their long wished for liberty, without being liable to the lash of the law, for serving God after their own way: notwithstanding all this, so hard, yea, so impossible a thing it is to content all parties; not a few vent their malice in every corner, yea, and in print too, against the king and parliament, though all their proceedings hitherto tend so directly to the general good of the nation, that we must either want common understanding not to see it, or prove most ungrateful to our representatives not to acknowledge such an evident truth as this is with our most thankful returns. To proceed with some method in this designed vindication of the late parliament, I shall, first, take a summary view of the late condition of our affairs; and, 2dly, give a full answer to whatever is maliciously suggested to the unthinking multitude; yea, and in printed pamphlets likewise, to the seducing of the simple, and to the great encouragement of the professed enemies and disturbers of the present government.—IV. If we consider in what condition we were in, the two last years of king James's reign, we may remember we were given up for lost by all our friends in Europe, and did think so too ourselves, it being then impossible for us to imagine from whence our relief should come. A power of dispensing with, and suspending of laws, and the execution of laws, was already so fully established, that the very humble petitioning to be excused from concurring to the said assumed power, was crime enough for the commitment and prosecution of divers worthy prelates: the court of commissioners for ecclesiastical causes was a sort of inquisition; or, at least, a certain fore-runner of the new way of converting people, by the irresistible eloquence of armed dragoons: the levying money for, and to the use of the crown, by pretence of prerogative, for other time, and in other manner, than the same was granted by the parliament, was nothing else but a preparatory contrivance, to try afterwards a French experiment upon the gold and silver of the nation: the horrible and illegal punishments inflicted by corrupt judges, excessive fines and bails, and several grants and promises made of fines and forfeitures, before any conviction or judgment against the persons, upon whom the same were to be levyed; and all the other injustices, grievances, and irregularities of those days, were but previous dispositions to the new modelling of the nation into a frame, the more easily to be wrought upon by the Romish priests, in case their weak arguments could not prevail, as it was impossible they should have prevailed, in a nation so well provided and stocked with solid learning, both against error and superstition.—V. If this was our condition within ourselves, it was made much worse by the dismal prospect of the threatening French greatness: the French king's known and close engagements with the late king James, the sudden growth of his power, both by sea and by land, seemed to threaten all his neighbours with the utmost desolation, unless, by laying aside the use of their reason, they acted all like fools, and turned papists; which could not secure them neither from oppression and slavery, since none are greater slaves, nor so unmercifully oppressed as the French papists themselves: this is but a short and summary view of the public calamities and miseries we lay under, till our deliverer came over to free us from them, by the best methods our representatives could fall upon for our safety in times to come: which are certainly such as give full satisfaction to all good men, and loyal subjects, that are not still in love with popery and slavery, both of body and soul, which always attends it: so that the present posture of our affairs is now such, that we have all reason to hope, if we can but agree among ourselves, this kingdom may become again, as it was of old, the terror of France. Europe never bid fairer for a level of the French monarch, he being now surrounded on all sides, by those he has made his irreconcileable enemies, by his daily breaches of oaths, by his oppressions and invasions, contrary to all Treaties made with him, either of peace or truce.—VI. We cannot then but highly commend the prudent measures of the last parliament, for supplying his majesty with necessaries, towards a vigorous prosecution of this present war the nation so long wished for in vain; the French interest prevailing too much formerly at the court of England, against the interest of the Protestant religion, and of the English nation. Such then as complain of some present hardships, always unavoidable in time of war, and would fain work the people into a belief of a happier condition under another change of affairs, seem not to understand their true interest; for must we expose ourselves to a certain ruin, to the loss of our lives and liberties, by not contributing liberally to the maintenance of a war, so necessary in this present juncture of our affairs? our all lies now at the stake, our lives, properties, liberties, and religion: should any tax, or impost, put us out of humour, and cause us to wish for a change, as if we could pretend to any security, in case things were settled again upon the same foundation they were on before?—VII. Are we not sufficiently acquainted, from daily experience, with this undoubted popish principle, that a papist is obliged to break his oath taken not to extirpate heresy, as soon as he is in a capacity to root out what he thinks heresy, under a no less pain than that of eternal damnation? king Lewis has satisfied all the world, by what he has lately done, that this is no calumny; and king James cleared all our

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doubts upon the matter, by what he likewise really did, and endeavoured to do.—VIII. But a late seditious pamphlet tells us a tragical story of the decay and loss of trade by this present war, that the Dutch run away with our trade at sea, and the French with our ships: this is but a mere groundless flourish, that can only make impression upon some weak minds, that neither understand their own interest, nor that of the nation they are in: it is true, we have lost several ships, and that is unavoidable in the beginning of any war as well as in this, till the merchantmen bound homewards are informed of a war declared, which must needs require some time; but of late we have lost none, or we have taken the equivalent of our losses from the enemy; and for the time to come, his majesty has taken such measures, that it shall not be hereafter in the power of the French to put a stop to our trade, either into Holland, Spain, the East Countries, or West and East Indies: and as for the Dutch, it is a groundless supposition, though too often in the mouths of such as are disaffected to the government, that they run away with our trade, since the contrary may be easily made out to an unprejudiced mind; do we not trade still, as well as the Dutch, both to the East and West Indies, to Swedeland, Denmark, Hamburgh, and Poland? Do the French allow them free passage more than to us? and if they send abroad greater merchant fleets, and perhaps under greater convoys than we do; by so doing they rather lend us a helping hand, than wrong us; because in the mean time they clear the seas of French privateers, which makes of course our voyages the safer, and great convoys not so absolutely necessary, as they would be at another time, when we were not in union with the Dutch: so that such reflections are either but idle and frothy discourses, or made upon a design to raise sedition, and stir up the nation against the present government: but grant that what this disaffected pamphleteer says were really true, as it is not, in the full measure he would have it, let us balance our present decay of trade on the one side, and on the other hand the consequences of not prosecuting vigorously the present war against the French, and we shall easily discover either the gross mistakes of such as discourse after this rate, or their real designs to ruin their country, by preferring a small inconveniency of not so full a trade, to the very being of liberty and religion, and perhaps of the nation itself.—IX. For let us allow to this pretended politician, the desired change of government he seems to aim at, this can never happen but in one of these three ways, either by the returning of king James again, or by the invasion of king Lewis, or by a civil war at home; which last thing, if some do really intend, they design nothing else but their own ruin, and that of their country; and if they would have king James to come again, must he come in by conquest? if he ever recovers England by conquest, where are then our properties, our liberties, our religion, our laws, and whatever privileges we now glory in, and that no other subjects in the world can boast of? would they have king James come in again by agreement? Besides, the apparent impossibility of the thing, upon several and obvious accounts, I would willingly be satisfied, as I was saying before, how we can trust him after so many violations of his word; and since by the principles of his religion, he is obliged in conscience not to keep either word given, or oath taken, to protect and promote heresy, if he is once in power to destroy it. If our pamphleteer pretends to a change of government, by a French invasion, he must either be a professed French papist, or a very bad English Protestant, and quite of a different temper from all true Englishmen, who have stood in opposition from all times to the French interest, not only upon the account of the Protestant religion, but likewise because of their civil rights, which both they must of necessity part with, if the French ever got footing in England.—X. I confess, as things now stand, there is little or no danger at all of their attempting the conquest of their ancient conquerors, the English, because of our union at present against France, with so many powerful allies; but yet, if we take not hold of this opportunity by the fore-lock, I know not what may happen in another scene of affairs, in case we were left alone to deal with the French; who by the connivance of the last two reigns, are become so formidable at sea, as to be a match either for us, or the Hollanders. Now, can any man of reach blame the king, for recommending so often to the late parliament, the absolute necessity of prosecuting vigorously the present war, in this present juncture of our affairs, or find fault with the representatives of the nation, for supplying him with the necessary sinews of war, especially since he has offered to give them an account of the disposal of their money, for the very uses they designed it for: neither can we be jealous of his majesty's design in calling in foreigners, in order to the speedy reduction of Ireland, because it is a matter of great consequence, for the humbling of France, both by sea and land, together with our allies, to put an end to our domestic broils with all possible expedition; and this cannot be better performed, than by joining to our own forces a body of veteran and experienced foreigners.—XI. But this looks, says some of our male-contents, as if his majesty mistrusted his own subjects, which if narrowly looked into, is a mere groundless aspersion, since all his majesty's forces, both by sea and land, an inconsiderable number of foreigners excepted, are natives, either of England, Scotland, or Ireland: does the French king mistrust his own subjects, because of his joining with them several foreign nations, as Switzers, Italians, and both English, Scotch and Irish upon occasion; the true reason of this common practice is, that an army consisting of forces of different nations, is upon this account more formi-

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dable than it would be, if it consisted of mere natives, that both those foreigners, and the natives, fighting through emulation, leave no stone unturned to outdo one another; the observing of this maxim made the Dutch a free people, to the pitch we see them in at this day. The French likewise owe in part their present greatness to the valour of the English, Scotchs and Switzers, who fighting not so much out of any particular kindness to them, as for their own reputation, were wont to overthrow whatever stood in their way, to the great advantage of the French, under whose pay they then were: undoubtedly this is his majesty's design in sending for foreigners, that the natives may act their parts the better by emulation and example; so that though it be allowed to be true, as certainly it is, that king William has a sufficient number of his own subjects to reduce Ireland, and those of an unquestionable valour too; yet it is prudence in him to call in strangers, to give life and a new vigour to his armies upon occasion.—XII. But in our case there is another reason not to be dissembled, why the present government thinks it necessary to make use of foreigners for our assistance; and it is, that though the nation be full of stout and valiant men, that might alone do the business, yet it is to be considered in this unparalleled juncture of our affairs, that if we divide the three kingdoms into six parts, two I doubt, at least, would prove either Jacobites, or disaffected to the present government: Now, what if the king raised an army, consisting in part of Jacobites, or of persons disaffected to the present government, since it is hard to know the bottom of men's hearts; what if I say this happened, might not such an accident as this, not altogether impossible, endanger the whole nation, and throw it into the greatest confusion imaginable, either by setting up king James again, and the French interest, or by converting this ancient and moderate monarchy into a common-wealth, which would prove perhaps no less the ruin of the nation, than an absolute, arbitrary, and tyrannical government? Is it not then more advisable now, and I am sure those that love their religion, and the present interest, will be of my opinion, to make use of this juncture of foreigners, together with the natives, to keep a little in awe the hidden Jacobites, and such as are disaffected to this government, lest they undertake to ruin the nation, upon the first fair opportunity to execute their treasonable and pernicious designs? this complaint of our male-contents had been more plausible in another juncture of time, than in such an one as this is, which once successfully over, and a peace concluded, we are secured by our laws from our own standing forces, as well as from foreigners. In the time we ought to look to ourselves, as all wise men ought to do, and secure ourselves against pressing and present dangers the best way we can, without minding remoter accidents, and merely possible events, that are not yet so much as in prospect; for upon mere apprehensions, and groundless fears, of what is never like to happen, to put a veil before our eyes, hindering us to see the brink of the precipice we now stand upon, is an unaccountable piece of folly, or rather madness, that no man having his wits about him can be guilty of; yet we must needs prove guilty of such a piece of madness and folly, if through a groundless fear of what can never happen in England, as things are now ordered, we should scruple to secure ourselves by the help of foreigners from the Jacobites and the male-contents, who might perhaps get the upper-hand, if not prevented in time, by some good method, as this is now thought to be.—XIII. No farther encroachments upon our rights and privileges are to be feared in time to come, since the bad success of all our late kings is an example to all their successors, wherein they may read their destiny, if they understood so little their own interest, as to act arbitrarily, as some of their predecessors did, to the great disturbance indeed of their subjects for a time; but at last, to the utter ruin of themselves and their adherents: his present majesty is so fully persuaded of this truth, viz. That the sovereign's greatness in England depends chiefly and only upon the love of his subjects; that taking his interest and the people's to be the same, as really it is, and always ought to be, to shun the dangerous factions of court and country, he prudently complied with their just desires, to whatever they thought fit to be done for the common good. I am then of opinion, that England was never so happy as it is now, (laying aside the consideration of the present war so absolutely necessary,) because of the good understanding of the king and his subjects, though our seditious pamphleteer leaves no stone unturned to divide them; whoever he is, he must needs be a man of a strangely disaffected spirit, since he blames the late parliament, for allowing his majesty so much power, as makes him a true king, and not the bare representation and shadow of one, as he would really be, if according to the project suggested by this man, he should not be allowed so much as the liberty of chusing his own counsellors, nor of proroguing parliaments either, upon occasion, &c.—XIV. The suspending and stopping, or stabbing, as he calls it, of the Habeas Corpus Act, puts him in a great fit against the late parliament, as having by this suspension wronged the liberty of the subjects; yet if before we give our last judgment upon the matter, we consider as we should do, all things impartially, not suffering ourselves to be biassed, by a wrong apprehension of things, we shall easily discover that the suspending of that act, at that time, was the only way to secure our properties and liberties, by preventing a civil and domestic war, which in all likelihood had ensued, had it not been prevented in time, by impowering the king to secure such as, because of their quality, or their former engagements with the then malecontents, were like-

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liest to prove ringleaders to new disturbances, in a time when things were not as yet settled upon so sure a foundation as they now are.—XV. But nothing is more insufferable in this seditious phamphleteer, than his affected jealousy of his majesty's being a sincere protestant; as if the nation should be the more afraid of him upon this account, because forsooth the parliament is likelier to give him more power, than if he were a papist, or of a contrary religion to that of the nation. This is such an unaccountable reflection, that I cannot but wonder to hear it from the mouth of any man, that either pretends to common sense or reason: for, 1st, At this rate of arguing, it would be better for us to have a king we hated and feared, than one of the same religion we loved, and were sure of; which is such an absurd inference, that none but a madman can propose it as reasonable. 2dly, Grant what he says to be true, as it is not, our religion, however, is secure, and perhaps the securer, the greater power we trust him with. But, 3dly, As our late representatives gave so much power to our glorious deliverer, as made him a king, and a powerful one too, so on the other hand, they have had so much regard to the safety of the people, as to secure their privileges and civil rights from any future incroachments of the prerogative, as may easily be made out by the late act, declaring the rights and liberties of the subject, and settling the succession of the crown.—XVI. The popish subjects are generally so oppressed, by their absolute sovereigns, that through an excessive flattery, and fear of blows, they seem to worship their kings as Gods, allowing them an illimited power, which no man of sense can admit of in a being of a limited nature, or at least allowing them to be the fathers, and absolute masters of their people, though the kings generally came out of the people's loins, as being at first made by them, and not the people out of theirs; and though subjects ought not to lord it over their sovereigns as masters, yet they ought not to be their slaves neither, but are to enjoy under their government such privileges and liberties as may settle them in an unalterable state of happiness, that the princes themselves may not destroy at pleasure; for as nothing is more rational than that we should submit in all things to the absolute power of God over us, so nothing is more unreasonable, than a blind obedience to earthly princes, as if they were as infallible as God himself; whereas their very kingship proves sometimes an occasion to make them the more liable, both to error, as being often misinformed of things, and to sin likewise, if they are not truly religious, as king William undoubtedly is, because of their uncontrolled power of doing what they please.—XVII. For these, and other reasons of that kind, though William iii, whom God long preserve, be the mildest and moderatest prince that ever sat upon the English throne, yet our representatives, to secure us from the encroachments of this and all succeeding ages, have thought fit to declare and establish the rights of the people so fully, and upon such a sure foundation, that England now is the securest and happiest nation in the world, if the natives can be but sensible of their own happiness. 'Fœlices nimium bona si sua nôrint Agricolas!'—XVIII. Four things especially declared in this act, secure us from oppression, tyranny, and arbitrary power. 1st, The rejecting of either a dispensing or suspending power. 2dly, All grants of money for, or to the use of the crown, reserved to the parliament for the time in being. 3dly, The disbanding of standing armies in time of peace, unless the parliament give consent to the keeping them on foot. 4thly, The settling of the succession of the crown. I need mention nothing else contained in this act, to shew that we are the only subjects in the world, that can boast of freedom and liberty, in case our princes cannot dispense with our laws, as they cannot without our leave, since they are not to give us, for the only reason of their kingly actions, Tel est nostre bon plaisir, Their goodwill and pleasure, as the French king does; for however the French modes have taken with us of late, we could never yet fall in love with so absolute a mode as this. As our kings must act by law, and not absolutely, though real kings, they do nothing of moment, but by and with the advice of their parliaments: our happiness then consists in this, that our princes are tied up to the law, as well as we, and upon an especial account obliged to keep it up in its full force; because if they destroyed the law, they destroy at the same time themselves, by overthrowing the very foundation of their kingly grandeur, and regal power; So that our government not being arbitrary, but legal, not absolute, but political, our princes can never become arbitrary, absolute, or tyrants, without forfeiting at the same time their royal character, by the breach of the essential conditions of their regal power, which are to act according to the ancient customs, and standing laws of the nation. If we are happy upon this account, that our kings can neither suspend nor destroy our laws, we are no less to be envied, that our purses are secured from the encroachments of an aspiring covetousness, by that part of this act, which tells us, 'That levying money for, or to the use of the crown, by pretence of prerogative, without grant of parliament, for longer time, or in other manner, than the same is, or shall be granted, is illegal.'—XIX. We may easily think our security greater than that of any other nation in Europe, if we reflect but a moment upon this important article, that we are never obliged to open our purses, but by the order and consent of our representatives, whom we have trusted with the care of our interest; which being equally theirs at the same time, we have no reason to fear that they ever lay any taxes upon us, but when it is absolutely necessary for the preservation of our lives, liberties, and religion, as all seeing men confess it to be, in the present juncture of

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our affairs, to prevent the return of popery and arbitrary power. This privilege has made our government to be envied by all our neighbour nations, and the happiest that can be imagined; for there being no surer way for a prince to become absolute, arbitrary, and a tyrant, than to impoverish his subjects to that degree of want and misery, as may force them for subsistence to comply with all his desires, whether just or unjust, he is disabled by this act from doing them any mischief that way; I mean, by squeezing the blood out of their veins; that is, the money out of their pockets, for any design he might have of ruling over them as mere slaves: to the want of privilege, we may chiefly ascribe the slavery the French nation groans under, their prince disposing absolutely of their estates at pleasure, and laying such heavy taxes upon his subjects, as leave them not money enough to buy leather shoes, instead of which they are forced to make use of wooden ones; so that the French are not so much in the wrong, as one would think, when in their flattering panegyrics they style him sometimes their God, since they in a manner are his creatures, whom he creates or destroys, by the least word of his mouth; for so absolute his power is, that his will is the only law they can depend upon, insomuch, that when he publisheth his orders for gathering of money, if his subjects cannot supply him otherwise, they must sell their goods, and whatever they have, to give him what he demands; yea, I have known in France poor people sell their beds, and lie upon straw, sell their pots, kettles, and all their necessary household goods, to content the unmerciful collectors of the king's taxes. By this little hint we may easily see, how much happier we are, as being laden with no burthens but what we are able to bear, and enjoying securely our estates, and whatever we can call our own, under the protection of our laws. Should we then leave any stone unturned to keep ourselves as we are, by opposing to our utmost such a cruel conqueror, as the French king would undoubtedly prove, if he ever, to our great misfortune subdued us?—XX. But let us speak one word to the third thing I mentioned before, that by this act we are to have no standing army in time of peace; the advantage whereof we may easily conceive, if we look a little aside towards our neighbours the French, they suffer patiently in time of war the heaviest taxes, and would not think themselves so much to be pitied, as now they are, if a peace concluded with the enemy bettered their condition, for they are then in a worse condition, in a manner, than they were before, because the standing armies impower their prince to do what he pleases in time of peace; it is then that he looks about him, to consider who has got together any considerable treasures, that he may ease them of them, though lawfully gained, and by good services done to the crown; so that it is no wonder if the French subjects chuse at any time war rather than peace, because in time of peace, their king's armies are wholly employed against them, whereas in the time of a settled war, they are partly taken up in opposing a foreign enemy. Let the impartial reader judge from the premises, of the happiness of the English subjects, compared with the miserable condition of the French.—XXI. The late parliament has done another thing, without which, notwithstanding all our other advantages contained in this act, our happiness had not been lasting, as it is now like to be for ever; and it is the settling of the succession of the crown upon Protestants, and none but Protestants: the words of the act are so remarkable, that I think it fit to insert them here, before I give you my reflections upon them.—'Whereas it has been found by sad experience, that it is inconsistent with the safety of this protestant kingdom, to be governed by a popish prince, or by any king or queen marrying a papist, the said lords spiritual and temporal, and commons, do further pray, that it may be enacted, that all, and every person and persons, that is, or shall be reconciled to, or hold communion with the See or Church of Rome; or shall profess the popish religion, or shall marry a papist, shall be excluded, and be for ever uncapable to inherit, possess, or enjoy the crown and government of this realm, and Ireland, and the dominions thereunto belonging, or any part of the same, or to have, use, or exercise, any regal power, authority, or jurisdiction within the same; and in all, or every such case, or cases, the people of these realms shall be, and are hereby absolved of their allegiance, and the said crown, and government, shall from time to time descend to, and be enjoyed by such person or persons, being Protestants, as should have inherited and enjoyed the same, in case the same person or persons, so reconciled, holding communion, or professing or marrying as aforesaid, were naturally dead.'—XXII. Nothing more certain than what is here asserted, that it is inconsistent with the safety of this protestant kingdom, to be governed by a popish prince, or by any king or queen marrying a papist: if we look back to the public transactions, in the days of king Charles i, we shall soon be convinced of this undeniable truth, since we may derive all our domestic and civil disturbances from his marrying a popish French princess, who at last became so troublesome to him, that he was forced to send home to France again all her attendants, in hopes to bring her to a better temper, by removing from her such popish emissaries, as were thought to put her upon some dangerous designs, which made the nation jealous of her secret intrigues with France; yea, and sometimes of the very king's religion, as if he had been perverted by the queen, or her priests, or had shewn himself somewhat too much inclined to the popish way of worship: but whether things were just as the people fancied them, or not, it is certain this unlucky match was the occasion of our civil wars, and of so much bloodshed in these three nations: such another sus-

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picion as this, was the secret spring of all our domestic troubles, during the reign of king Charles ii, for though he professed outwardly the protestant religion, yet the people, upon what grounds I know not well, could not be sometimes satisfied, but that he was either a papist, or popishly inclined; and upon this very account, the nation was always apprehensive of French pensioners, of popish plots, of tyranny, and arbitrary power: now such apprehensions and fears could not but be the seed of divisions among us, of heart burnings, and either of grounded, or groundless jealousies, to the endangering the peace and safety of the whole kingdom: so true it is, that it is inconsistent with the safety of this kingdom to be governed by a prince thought to be popishly affected, but sure far more to be governed by a sincere, zealous, and professed papist, as we all know king James gloried to be; how near we were the brink of our ruin during his reign, and how unavoidable our entire ruin was, had he reigned longer over us, is so evident to all seeing men, that I need not enlarge upon the matter here. I shall only add in this place, in order to make out the truth of what is asserted by the late parliament, 'that it is inconsistent with the safety of this protestant kingdom to be governed by a papist,' that when our prince is a real papist, he is obliged by the principles of his religion, to do his utmost endeavours to submit his subjects to the pope's jurisdiction.—XXIII. First, because he must then of course look upon his subjects as real heretics, and schismatics, whom if he do not root out by all possible means, he is liable to be deposed by the pope, according to the famous and known decision of the third council of Lateran; how then can a protestant nation put any trust in such a prince, whose whole business is, and ought to be, to destroy their religion, and force them to return to the old Romish superstitions again? And if subjects cannot trust their sovereign, it is but rational to think they will take all imaginable measures to prevent their own ruin, and that of their religion, always dearer to them, if they have any piety at all, than their very lives; but these very measures, how just soever, must needs breed stirs in a nation, to the general disturbance of the natives; since the politic body, no more than the natural, can be a moment in a quiet temper, without a free and friendly intercourse and communication between the head and the members. Secondly, If a popish prince is obliged in conscience, as I elsewhere intimated he is, neither to stand to his promise, nor word given, to protect heretics, and heresy, how can he sincerely promise, to maintain and defend our Church; or rather how can we be so silly as to believe he will maintain it, since it is not in his power to do it, in case he finds himself in a posture to undertake its ruin? But, Thirdly, to be somewhat more particular, the safety of this nation was inconsistent with the government of the late king James, upon a particular account that I shall here mention.—XXIV. Of all the different persecutions of the Church of God, none can be compared to the late persecution of France, both for its cruelty and novelty. The Roman emperors, I confess, exercised all imaginable barbarities upon the bodies of the primitive Christians, but never attempted, or, pretended any right over their souls, and consciences; they banished them, tortured them, invented all sorts of death to destroy them, but the art of dragooning men into religion, was reserved to be the contrivance of Lewis xiv. Though he was engaged by the most solemn edicts of Nants and Nisme, and by his coronation oath, to protect and defend the French protestants, with all their rights and privileges: had he declared he would suffer no longer the Hugonots in his kingdom, and ordered them upon that account to depart out of it, if they could not change their religion, we had not complained so much of his severity, how antichristian soever; but not to suffer his subjects to leave him, nor to live with him, without turning to his principle, and that not by argument, but by all the wounds the dragooning sword could inflict, that of death only, which in this case was the least, excepted, is such an example of cruelty, as is not to be paralleled by the greatest fury of the Roman persecutions; and which without doubt contributed not a little to our late happy revolution, by determining the English, through an absolute necessity, to do what they did for their own safety; for had they not reason to look to themselves, considering the proceedings of the French king, contrary to all his oaths and promises, to maintain, defend, and protect the Hugonots; they could not but know that the late king James was more devoted to the interest of the Church of Rome, than Lewis xiv. himself: so that they could not in prudence but take to measures they have so successfully taken, for their own preservation, and that of the protestant interest in general. In one word, nothing could be more terrible to the English, who are so much in love with liberty and property, than to see themselves threatened to be dragooned out of both, by the help of such a powerful ally as Lewis xiv. The late parliament then considering the great progress king James had made, in a very short time, towards the bringing in of the French method of converting people to popery, and what impressions such a precedent as that of France might make upon a prince, that needeth no spur to the promoting of his own religion, thought it fit, and absolutely necessary, for the safety of the protestant religion, and the peace of this kingdom, to exclude for ever from the imperial throne of England all popish princes, whereby not England only is secured from such troubles as always ensue upon any jealousy between the king and the people from different principles of religion, but likewise all the protestant princes abroad, are incouraged to stand their ground against popish invaders, since they may be sure of seasonable

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succours upon occasion, from the protestant princes of this powerful monarchy.—Though what has been hitherto said, does sufficiently justify all the proceedings of the king, and late parliament, to the satisfaction of all such as are but impartial men, and not disaffected to the present government; yet because some men seem discontented at two things not done by the late parliament, and which they think ought not to have been omitted, as being undoubtedly of no small consequence for the public concerns, and peace of the nation; it may not be amiss in this place, to clear all their scruples upon these two heads, viz. Why the late parliament neither settled the militia of the kingdom, nor passed the act of indemnity, though earnestly pressed to it by the king, in order to the quieting of people's minds. As to what relates to the settling the militia of the kingdom, it is to be considered, that how necessary soever it may seem to be, it was neither perhaps possible as then things stood, nor expedient to settle it, by reason of the uncertain, and unknown disposition of most men's minds at first, in all great and sudden revolutions, but more especially in such an extraordinary and unprecedented one as ours was; for since our greatest strength consists in our militia, can any man of sense think, or say, it was either fit, or secure, in the then posture of our affairs, to deliver up the very bulwark of the nation, into the hands of such high officers, as the lieutenants of the militia are in England, till it was better known if those who were fit for such places, were really men of such a temper, as the present government might trust to, and rely upon: for extraordinary revolutions of state being much of the nature of the great waters, tossed to and fro by boisterous winds, do always require some time before they are settled again in such a calm, as may encourage both private men to follow their former measures, and likewise those who sit at the helm to undertake, and prosecute the fittest methods for securing themselves, and the people under their government, from new dangers and storms, always to be feared after a sudden and unexpected calm, as ours was: we were under such a dismal cloud of imminent and threatening dangers, a little before the heavens cleared up from the Dutch Coast, that we do wonder at this very day, to see ourselves escaped such an unavoidable shipwreck, as we thought ourselves then exposed to; but it is not enough that we are got on shore, and a Terra Firma to stand upon, unless by looking nearer into the matter, we consider seriously with ourselves, how to maintain our ground, and settle what we have done upon a sure foundation; for as our late happy revolution was a real one, how odd soever, and unlooked for, so considering how easily men change their resolutions, and because it might be immediately succeeded by an unhappy one after the like manner, it was a piece of great prudence in our late representatives, not to be over hasty in settling the militia of the nation, till both they and the king were thoroughly acquainted with those who were to be trusted with commissions of such an high concern; but it being impossible they should understand their real temper, while all things were as yet on float, no wonder if they deferred the settling of the militia, till the hearts of men were known to be first settled, which time only could inform them of. As to the act of indemnity, it is clear there was little or no inconveniency to defer it for a while; for since it relates mostly to such as have been guilty of irregularities, and illegal proceedings in the late reign, where is the harm if the government keep them somewhat in awe, by deferring their pardons to more settled times, lest they might prove ringleaders to new changes, if they were not checked by the fear of the punishment their past crimes deserve? for it is a groundless reflection to say, that the not passing of the act of indemnity encourageth them to do their utmost endeavours towards the bringing in of king James again, since it is clear to all men acquainted with the present posture of his majesty's affairs, both at home and abroad, that they must needs despair of ever being secure, if they hope for no security till king James's is settled upon his abdicated throne again; and may not I be allowed to say, that to judge of things to come, by the present temper of the nation, they are in no danger at all, or at least not so great as some would have them apprehend it to be, because of the great moderation the government has hitherto shewn, and will undoubtedly shew hereafter, to all such as are willing to comply with the present, that is the protestant interest, in opposition to popery, and the French king's designs against our properties, and liberties, if by the help of the Irish papists, and other male-contents, he were enabled to conquer us. But to mention here another pressing particular, relating to this subject, since it is well known, that at the sitting down of the late parliament, the king, by the advice, yea, and earnest request too of our late representatives, entered into a necessary war against France on the one hand, and against the Irish papists in Ireland on the other hand, I would fain know from any not designing man, what was fittest to be done in this case, was the time to be trifled away with the settling of the militia, and passing an act of indemnity, before any supplies had been granted his majesty, for maintaining this kingdom, and his subjects against the formidable French king's fleets at sea, and his Irish forces at land, commanded by the late king James in Ireland? sure all men of sense must needs confess, that this principal was first to be minded before any such accessories, as undoubtedly these were, in that juncture of our affairs. Now it is methinks evident, that the ordering the sinews of great warlike preparations both by sea, and by land, then, as now so necessary, could not but take up a great deal of time, especially when the money is to be levied, in due proportion,

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upon all the chief subjects of the nation; the necessary debates upon such occasions, about the sum itself to be raised, upon what, and the manner how it is to be gathered, are things of such a nature, as cannot be done on a sudden, whatever men's endeavours may be to bring them in a short time to a period. The late transactions of the last parliament, besides the nature of the thing itself, are evident proofs of what I do here affirm, to all such as understand any thing in affairs of this kind, never done in England, otherwise than by meetings, conferences, committees, debates, votes, and such other like methods used in parliament, upon all matters of a general, and national concern. To conclude: notwithstanding all that I have said, grant it was expedient, though I have sufficiently proved it was not, to settle the militia of the kingdom, and pass the act of indemnity, before any thing else; these so much talked of omissions are both inconsiderable in themselves, since we smart not yet for them, and not at all dangerous in their consequences, which if really hurtful, may be easily prevented by the next parliament.

N° V.

The STATE of Parties, and of the Publick, as influenced by those Parties in this Conjuncture, offered to Englishmen.

Printed about the Year 1692.*

'TIS a miserable circumstance, and the general ruin of prosperous States, when Parties out of separate interests and passions pursue different ends of their own, without regard to the publick, although the chief interest of each: but it is a circumstance beyond common misery, a propensity to ruin more than natural, and a fatality on mankind, greater than has been ever observed perhaps in any country or set of men, that they should be divided into Parties from the public interest, when there is not so much as any real particular interest, in effect, carrying on in any of those different parties; not any of these discriminating interests so laid, or so pursued, as that, by all the violent steps taken by the engagers, they are any ways advanced. So that although violence be done, and still doing perpetually to the public; though all contend for the promotion of that Interest or Party under which they only look for any happiness: yet for all this, not one of these Interests receive any advantage; not one of these Parties are likely to procure or come any thing near their end. Our nation must be allowed to be in a most compleat way to misery, if this be proved their case.—That there are Parties it is well known. The first great division is between king William and king James, which takes in all our present active men: for as for Commonwealths-men, which some would have to be a third distinction, besides the turn it serves at court, it has no meaning; unless the quiet part of England, those tired with revolutions, and farther engagements with men of these days, or those that are divided in their thoughts upon the interests of either king, as they stand to England; unless, I say, these be they called Commonwealths-men, however absurd it be.—Of these two Interests, that of king James does properly make but one party, though the other two. Those, I say, make but one party, as they act in the public: for they having in prospect only, and as the end of all their agitations, the government of king James; they are not now divided, nor can be yet, whilst unprevailing, in any dispute or difference considerable about administration, as how, by whom, or in what methods, favouring one or other Party, that government shall be carried on. The side, then, of the now-governing king being turned into Whig and Tory, there are but three parties that pull different ways, or with any noted force in the public affairs.—The meaning of all these men, if they have their main interest, their stake, estate and friends in England, is and must be to preserve England, though not from perfect monarchy, and absolute power of a crown at home (which some approve of and like the best, whatever name of tyranny or slavery it has heretofore gone by) yet to preserve us, at least, from the yoke of foreign power, from being overgrown by States that are about us, and coming down from being the principal in power and riches, to be the last of Europe, or but once inferior to any of these neighbouring ones; which will turn to as much, since it necessarily subjects us to the miseries of those invasions we endured of old, as then the common prey of all the world, and every rising nation. This surely, whatever else may be his interest, is the interest of every individual Englishman, in all these parties to prevent: but if this be what is least done; if this not only be not prevented, but be the only thing that every party, every side, though not intentionally, yet really, does draw on, advance, promote, and nothing else, no not their party-interest, not any valuable victory or triumph that one may gain above another, so much as

* State Tracts, published during the reign of William III. vol. ii. p. 208.

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gratifying a passion; then are we in that state I mentioned, in the fairest, most miraculous way that can be thought on to every thing that can be called ruin or destruction to a country.—That when we lose our strength, we are more miserable than any other people, the surest seat of the most various, sharp and lasting war, experience the most remarkable that ever was has taught us, from the highest remembrance of our selves through Romans, Danes, Saxons, and many nations more (though less remarked) down to the last Normans, and that concluding Conquest which by the power of the conqueror abroad, and the continuance of his Line here, established us on our own bottom. And that this was not mere misfortune, but that it is a fate peculiar to us, I mean, that it is a natural evil to us more than any country, when we are low; whoever studies our situation, and the growth of nations on the continent, will know, that such a country as this is more disputable than any other: that the dominion of it cannot be so fixed, and the immediate masters of it, however powerful on the continent, not able to insure to themselves the possession of it, by holding it out against strangers, or guarding it from their enemy, so well as of other places; that this is in that sense as a frontier country; with this difference, that those that are really frontier countries, though they are so this day, may have the luck not to be so a little while after: but that this country has always the nature of a Frontier, ever to maintain war in it, and to be the subject and place of contention amongst those that are stronger than itself, whenever such there are.—In fine; That as we are an island, and have the sea round us; so by being masters of that (which is, in short, by being in the practice of it most, and can be no otherwise) we must of consequence be the strongest in the world, as the world is now turned to Navigation, and each country by degrees at length brought to depend absolutely on Trade, by wanting many necessaries from foreign places, which once they could live without perhaps, but since cannot, nor can defend themselves without: this being the change that the improved art of Navigation has made in the world; tying countries to a reciprocal dependency on one another for their growths, and obliging them to some sort of correspondency. But on the other side, that as we are the strongest in situation by being an island, the Dominion of the Sea supposed to be with us: so that being lost to us, and in any other hands, or divided amongst others, we are of all the most and worst exposed.—This being granted, it follows, that whatever circumstances of ours admit other nations, foreigners, whatsoever to grow (though at the same time we were granted to grow too) so, as in proportion, above us in Navigation and Trade; this necessarily subjects us to all the miseries before pointed at, and is the direct way leading to a consequence no ways to be evaded: for when that work is done, and the advantage once given up, whatever party do (as they think) their work, it is altogether vain to imagine that any such party, or any party whatsoever prevailing in this nation, or all of them united in one, can call it back, or by any means, arts of state, treaties or engagements whatsover, be able to turn off that inevitable evil that must light on all at once. And if this be the consequence of all the actings of every one of these parties at present; if, in the seeking of their own ends they are likely not so much to prevail either of them over another, as to reduce us into this state, this irrecoverable consumption and debility, with all the consequences proved; then it will be found that in the methods now taken, they act constantly against, but for no interest that can be called their own.—All men naturally follow their good; and it might be well objected that it were only a notion, and in effect impossible, that men should act thus, as I say, were it not through ignorance; such as is indeed in our case, the want of a sufficient conception and real sense at heart, of what is the sole safeguard and support of our country; the want of truly considering how matters stand, as to that, and how amidst all, that is likely to be effected, which must (as I have said) affect us at last above every thing else. And such a blindness as this it is that men are kept in by their passions, by the heat of party, and the animosity of personal quarrels, or so that by the resentment of some present uneasinesses, men are hindered from thinking on greater evils at some distance off, and not yet absolutely felt, though just impending.—Now, to charge every Party singly, according to what I have said, and the imputation of inconsistency that I lay on them; I instance first in those, as to the generality, who carry on king James's interest in their endeavours, and make his party.—First, then, suppose that it were a service to his interest to have us weak at Sea, sunk in our Trade, in loss of seamen, ships, builders, and all materials and arts-men belonging; what would it avail to his friends (if Englishmen, and to no others do I speak) to have him here fixed in his government, nay fixed even with every one's consent here at home, if suddenly we found ourselves thus low? How should we ever regain this loss? How ever come up again with other nations? Will they stand idle, see us take breath, and let us rise; or will they stay for us, and stop so long as till we grow again into our place above them? If not, how shall we avoid the consequences above set down, and taken I suppose for granted, viz. that if we lose the practice of the Sea, we are then revolved again into our old state, mere naked Britons, his that can take us; and (according to the natural and constant practice of mankind) by their station about us, and their then readier access to us than any other place, by lying so fair, and so on all sides open; the assured common prize that every nation fights for, when aiming above others, or when but in the slightest quarrel?—

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When once the stroke is given that brings on this condition, when once our Naval Sinews are cut; how is it that king James shall be fixed here? How is it that either his or any government shall be said to be fixed here with us, when we ourselves, as a people, should then belong to others, or lie at power to belong to them? which, as mankind and states are constituted, is not far different,. since power to take, and taking, are in those cases never far asunder; and since Parties are now easily made within a nation considerable enough to serve a turn, and for any invaders to ground upon; and that all Invasions, though as perfectly so as those of Goths or Vandals, can be coloured now with reasons of religion and justice, and as though even for the very benefit of the invaded people. For no countries hardly now are ever conquered but by a force (as Manifesto's and Declarations set forth) intended for their relief and just establishment: and the name of Conquest, that comes to be established after full success, is found to have been preceded by, and owe its production to the very names, however dissonant, of Assistance or Deliverance.—In short, if once we are exhausted in a war, so as that our navigating art, and all the means of it, be shared amongst foreigners, and the current of our trade drawn into other channels; which by no art can be retrieved, nor any change of fortune, but by a turn that may give us the advantage that we gave, and when all else are fighting, give us peace; an accident the hardliest to be imagined, since when once weak, we are above all others the surest to feel every dispute, and often like to be the chiefest subject. If this come ever to be our condition, as it is endeavoured to be now made, let any nation whatsoever give us or return us a king; if this be the terms of such a gift (whatever other terms be made) if this be that that is to bring it about, any Englishman will have but a sorry bargain, and such a king will be of little worth to us, or we to him. Grant that the nation we receive him from be not, in the end, upon the account of the lowness we shall be reduced to, left masters at Sea of all the world; and grant that they were not near so by land either; yet of what benefit will this be to us? If any benefit, it will be this, That that way it will not be determined whose we shall be, the other way it will: the one way we are a province, and must serve immediately; the other way we remain to be fought for, and the dispute must be in our own land, perhaps by more than two at once.—If this be right, then, not only they who serve this court in the present way, serve England ill, but they too who serve king James in such a way as is sure to sink us; set any other neighbours over us in Navigation, and do our work as to that business: they, in effect, I say, do nothing for themselves as English men, nothing for king James as an English king.—But, then, that these sort are doubly mistaken, appears by this: for that it is not the likeliest way to introduce king James (unless for England to be absolutely conquered by another nation, be the easiest way; and such a Throne, so gained to him, be thought most valuable, and most a throne) because that if, by the nation's choice, he would come in, it can be only when they find an evil in this government greater than they felt in that they changed from, or that they think they would feel by his return; and then only, when the dread of that power, that now supports him, hangs less upon them, and that they can be freed from their jealousy of the king of France's governing by king James. Now, whilst we are losing every day at sea; while the king of France's fleets, and privateers grow, and the terror of this spreads; there can be nothing left to give a more absolute horror of king James than this, and when an invasion comes, to drive the body of the people from an easiness and unconcernedness (which otherwise they would be in towards any such Revolution carrying on) into a very desperation; which will produce the uttermost resistance, when it may be expected they should be forced to yield.—The hint that I have given may shew, I think, how much the common Jacobites are besides their interest, and how well they know to wish as well for their king's particular interest, as for the general interest of their country; and what mighty service they do king James, and disservice to king William, by their common way of talking about the force of France at sea, and their endeavours to give still greater grounds for such terror.—But to come now to the behaviour of the other two Parties that are shut up within that of king William's. Every body knows there are two sorts of men; in each of which, there are such as are engaged to king William's Interest, as absolutely and without reserve, as he has required of them, or can require of them, in any prostitute sense: and yet these two are perpetually opposing one another, and make two sides, which are commonly distinguished by the names of Whig and Tory. According to the too good success that the courtier has had; we see that, notwithstanding any interest that the patriots (as many as there are) can make; and notwithstanding that odium which so many of the court-followers have incurred, yet there is still this fatality, that those continue mainly prevalent in each; those move the herd of both these Parties; those have, in effect, the sway, that are with all that latitude I have said, engaged in the interest of this court: for, whoever calls this court in question; whoever doubts its good intention to English men, to English liberties and government; whoever quotes past Declarations, or instances a present Grievance; nay, or that in discourse is but luke-warm towards the state; a way is found (and it seldom fails) to make that man ill thought of by the herd, suspected by the vulgar of his party, and shunned as a deserter: for with one Party he is insured a Commonwealth's man, and with the other, a plain Jacobite. For what else

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should he be, that acts against this government? Thus, with one short question, and that equivocal term of Government, as it is put there, the courtier does his business.—This shews what is understood here by Whig and Tory, meaning as the court is prevalent over both those Parties. And as thus, let us consider how they act; whether as likely to obtain their common end in the support of this government, in the manner it is suffered to be carried on by them; or whether, when that is done, as likely to obtain either of them their separate end (in prospect of which they so assist, and court this government) and as likely to carry their expected advantage over their opposite party.—The Tories have it for their end to see the Church established in as high power as ever; to see it freed from the eyesore of Dissenters and fanatics; to remove the ill precedent of Scotland; to set up Episcopacy in such strength as is required by the clergymen themselves, to put them out of fear of every thing; and to have a king governing with as large a prerogative as may be; but still by the means, and under the tuition of such a Church. The Whigs dread such a power in the Church, and are so dissatisfied with what it has of that king already, fearing what may come, that they expect a greater security than is given them at present, that those who are Dissenters from, or under the mark of the Church for being ill friends to it, may never see it in a condition to take its revenge, or give them any disturbance. These men exclaim generally against all Arbitrary Power, but more especially that which the Church would introduce, and their enemies would most profit by.—Neither of these two Parties, towards the satisfaction they desire, now go about the making of any new laws, or attempt any alteration in the present Settlement: but their labour is, the gaining of the king, and the getting those of their fraternity (whatever otherwise they be) into the Government. This is the only means by which they, at this time, think to serve their interest. This is the only pledge they now ask for the success of their respective Parties: each promising to themselves that within a little time, or whenever his majesty has made an end of his enemies, he will declare for them, and for the future employ only the men of their stamp. Now, though all this while, according to the methods kept up between these two Parties, the government were like to stand, yet it is ridiculous and foolish what either of these men expect.—We may, I think, be satisfied that (whatever we may expect from any other) this Court is not likely to be at a stand, and rest contented with the allotted Revenue and Prerogative; much less to agree to a diminution of either: though there be a considerable party in England that think, and will still think (which will cost the court some opposition) that the Prerogative is at a height in some points very prejudicial to England, and likely to overturn the antient government of it, one time or other; especially, since the nobility is now so sunk from what it formerly ever was. It must therefore be supposed, that when this general victory is obtained, and king William is established, either he will be as he now is, under the restraint of laws, and parliaments to be struggled with. If it be the first; What is it that will move his fancy towards the Church-men, when under no obligation, to reverse all the Scotish affairs; act contrary to the principle of Holland, and all his Protestant Calvinist acquaintance and relations abroad, and exasperate so great a body as the Dissenters and Whigs here? The Church-men must be wonderfully conceited, and have a strange good opinion of themselves, or a very wrong one of the king's principle and conscience, to think he would be thus serviceable to them out of affection merely. On the other side; if the Court be not (by being fully absolute) freed from these restraints, but be to work its way through, and that the prerogative be in a craving state, and wants to gain upon the people, What can more satisfy it than the present construction of Whig and Tory in parliament? Is there any thing that the court cannot carry? Whereas, if one party were declared for, it would not be so. As to the Whigs, the thing is the same. This ballance that the court has got is too useful, and shall never be departed from (so as that the Whigs shall be a jot more advanced) whilst the court must use a parliament: and if that time once come to be over, though it is not to be thought that the court will ever act for the zealous Church-men according to their expectations, as above mentioned; yet on the other side, to think that then any thing will be done more for the Whigs, for the advancement of their persons, or in favour of their principles, is what the least of all can be imagined, and is the most absurd.—Thus, as a Party, not either of them are likely to obtain their ends: but their contention to be still improved against themselves, and they made accessaries in their own private loss; as subject to all the inconveniencies of such a constant feud, without prevailing any thing by it: and, as English men, instead of profiting themselves, they are only like to be made accessaries also in the general public loss, which we shall suffer as a free people, by losing all our privileges; and as a people, by falling at length under foreign subjection, and all the miseries that make even that state worse to us than other countries.—But to know this last; Why this Government cannot stand upon its present basis (which it is so unlikely to change) nor the methods succeed that the Parties take to support us by this court against our enemies; why even this is truly impracticable, so as that they will prove in the very utmost disappointed: we must consider what it is that the court does, and intends to do; and what means the Parties approve or admit of in the court, to carry on this war, in order to subdue the enemy, obtain the peace required, and settle Europe, so as that we, with the other States

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of Europe, may not fear one common enemy; nor we, singly here, an enemy either secret or open, that may undermine or ruin us alone.—The purpose of this Government, the conditions on which it rose, and the ends for which it was erected, are known to be; for the rescuing us from a Power in the Crown, advanced by evil Ministers and corrupt Judges, to be superior to all our Laws; to secure us from such an insatiableness of Prerogative as would swallow Liberty and Property, and take away the Privileges of the Subject; to free us even from such a disposition of a court as could not but tend to this effect, and from such a ministry as nothing else could be expected under, at any time: and lastly, to remove that under which all laws and constitutions can make but a ridiculous safety for us; to remove, I say, a Standing Army. This being so; it is impossible to think how this government can stand, if these ends are not answered; except it fix itself here by absolute Conquest; which cannot be but with a foreign help: and that reduces the thing to this; That we must be a province to that prince or state that is in the greatest power abroad; however we may please ourselves with calling this our own Government, or our king that then shall govern us.—I say, though this government could free itself from the enemy it is now engaged with; yet, not answering its ends, as above-mentioned; but directly on the contrary, pursuing those others it was set up in opposition to, and so (as I may call it) subverting its own foundation, it cannot stand: for, if the foreign force and power of a dreaded neighbour be no longer on foot, so as to fright men (as at present) into the support of this Government at any rate or prospect; nor that a foreign force, in the hands of these governors, overpower and conquer us; it is not to be thought, that the spirit and principle that brought in this government, through all the impediments of a then so heightened prerogative, and of Passive-Obedience principles, that are so much levelled since that time; It is scarce to be imagined, I say, that the spirit of impatience against a government, setting up the enslaving attempts and ministers, should be so sunk, against that comes (when it has had, all this while, such means of growing) as that it could not make its way towards a new change, and act another Revolution; when the same need, with an additional resentment and shame for having been abused, together with a readier means, and the way so much facilitated by the foregoing precedent, invites them to it. Or, if by themselves the party for liberty and the discontented would not be able; yet whilst there was any of the excluded branch remaining, they would by that means make an effort which would perpetually shake, if not quickly overturn this government.—But that we may prove, how that but to get through their present enemies, and reduce the Power of France, is a work but vainly expected from this government in the posture that affairs are in; let us consider how this War is managed; how our Administration stands in respect of it; and whether, at our rate, we can so much as continue a defensive war.—Let us compute what are the Expences of the nation in this War; what are the Losses and Charges we suffer by it; and what are the Reparations we make ourselves, by the prejudice drawn from thence to the enemy.—Our Losses are, the exhausting of the wealth, the stock of the nation, in the vast sums drawn out from thence, for the use of foreign countries, and the numerous troops paid in those countries: and at the same time that our sustenance goes out, it is hindered from coming in to us; we losing every day in Trade, the profit of that still cut from us; and that of it which remains amongst us, turning in a manner against us; it being the Importation of foreign commodities that now chiefly drives it; and our own part begun to be managed by foreigners: by which means, we abandon to others what we are every day losing in the navigating practice, and the breed of sailors and other arts men belonging, that should be raising amongst us here. And this must needs be so, since the French, to all effects, in prejudice of us, remain in reality the masters of the sea, notwithstanding that advantage which another Providence than that of men, gave us over them: a Providence which turned that into a victory on our side, which (according to the surest consequences of humane affairs, by the whole disposition of matters, and the grounds, and form of that enterprize on foot) should have proved the interception and ruin of a great part of our fleet, and the execution of a Descent which then surely would have made itself been felt. Now, if with such an assistance of Fortune, so far from being ever to be hoped again, we are not able to maintain the sea for English ships to stir without being taken; that French squadrons still, M. Du Bart, and all the other numerous privateers with vessels some of 50 guns and upwards, lie in our Channel, from off Ireland, and round our coast, do what they please, take us whole fleets of merchantmen together, supply their king largely with what they take of ours, make fortunes for themselves considerable, and enrich the sea-port towns of their country, that flourish now, and grow prodigiously with our spoils: if this, by our management, be now so, and not prevented; if it be thus now, this very season, after what has happened for us, how will it be henceforward? How are we like to put a stop to this? And if we do not put a stop to what already is of this kind (though it should grow no more upon us) where must we be within a little time?—Here then we see our losses, and where our wasting is. And as to what Reparations it may be expected we should make ourselves; we are so far from aiming at the ruin of our enemy, or the offending of him in this way, that we are not so much as in any prospect of being in a condition of preventing that ruin which comes in upon ourselves this way; though it be properly our

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chief and only ruin that comes thus.—If this way, then, we do no good; how, in what manner is it, that, in bearing all this, and by what we pay so deeply for, we are to make even with our enemy, and more than so? How is he to be made come off at length the greatest sufferer, in order to oblige him to yield? Where, if not here, are we to make the impression upon him that must give him the worst in the war?—There are none except those who dream of a Descent (which though but for the same reasons that made it last year unsuccessful, cannot be expected but to prove so this next, and is likely to prove more fatal to us, if so) there are none, I say, except those that under such councils, such ministers intrusted, and such an administration as ours, do flatter themselves that a descent shall be able to be made and be supported, so as to turn to the enemy's ruin and not our own; there are none besides this sort of men, that go about confidently to give any hopes of matters to be done by making an impression any where on France with our land armies. Which notwithstanding, let us examine, since it is what we rely on. For being not in a way so much as to preserve ourselves at sea; much less are we in the design of ruining our enemy that way, destroying his trade, and cutting off his supply of riches by which he bears up in the war: although, indeed, those very riches come only into him by his Shipping, and the Exportations that way of his country's products; the Money that he gets for them in a land trade, with any country joining to him, being in comparison very inconsiderable, and much overbalanced by the Charge he is at, in those countries, for many necessities of his own (especially in war) and by the vast sums of money continually distributed there in Pensions; as by considering only Switzerland, will plainly appear. But we, I say, do not apply ourselves this way towards the reduction of France. 'To ruin him in his West-India trade, and cut him off his seamen; to shut up his commerce northwards, through our own seas; to spoil him (as might be) some of his chief harbours and sea-port towns; destroy the rest of his ships of force, and ruin his trading even in the Mediterranean:' this is what we either think not of at all, or think is insignificant, or not so noble (nor so saving, or of dispatch, it may be) as the campaigning method at land; or as being less suitable to the genius of our Prince, so also less suitable to that of our nation: which, besides, will be raised to high esteem and power, and have its Liberties best guarded by the establishment of a noble Army of its own, thus trained up; by that time they, joined with the foreigners, dependents on our king, have made us victorious over the enemy, and brought on for us our so wished-for peace, which then their interest will endure.—The Sea therefore we leave as it is; and our work being not to be done, or not convenient to our present court it should be done that way, our dependence is upon another. Now, to know how this other is like to succeed with us; let us consider in what places of France it is that we may expect to make the impression at land. —The hopes of Savoy are over. The ill success which that attempt had at a time so advantageous, leaves, indeed, little to hope for any future time, after that this baffle has given the French so great security, cut off our expectation from an assistance of Protestants there, and given the occasion to the French to put themselves in another posture on that side, strengthen their frontier, and secure those passages; and to do at least so much for themselves there; although it were not likely that they should be found to carry in a war this summer into Piedmont, that shall oblige that prince to make his terms.—It is not on the Rhine surely, that we expect our enemy should be sufferer; when instead of being put to use the strength he has provided for his defence there, he can every year raise contributions on that side sufficient to maintain the armies he employs there; and take, with countries, whole regiments at a time, so as the duke of Wirtemberg and his troops were taken lately, without so much as fighting, and about 3000 of the best German horse taken.—We do not expect, I suppose, that an army from Spain will enter France, or that that nation is in a condition to make an offensive war against France. So that the stress of all lies now in Flanders. And do we expect to see ever any better armies there, more numerous, more united, or more animated than they have been these last campaigns? The confederacy may soon be lesser; but what can make it greater? —Are we to find any other generals of that Confederacy than what we have? Or will these come to be abler, and out-grow the French ones at length by experience? If it be an absurdity to think thus; is it not a great one to think we shall have other success than what we have had? And what has that been? At Flerus we receive a rout, where we lose a good part of an army. Another year, if we are not beat in the campaign time, we are charged in the rear, and a mark given us at going off. Mons is taken one year, and Namur the next; (with what attendance is notorious.) So that if our strongest towns, we see, go off before our strongest armies, what are we to expect will be the fate of the other towns that are as yet remaining with us, and are the last that keep the barrier? They too, if not immediately, must in a campaign or two more, go the same way of course: though at the closing of our campaigns (which cannot keep us up but a defensive war) we endeavour to take a kind of revenge, by attacking the French with as much advantage and success as we did now lately at Steinkirk. But can we think, notwithstanding this, that by recruiting our wasted troops, and by raising other new ones, proportionable to what France raises, we shall prevent all this; and not only so, but after having retaken Namur and Mons, with what else we have lost, be able to pierce into France through treble

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ranks of Garisons, by taking of them one by one, or all at once, or leaving them behind, and marching through them? Surely men of thought will stick at this.—But notwithstanding all this; the Engagers with the Court, carrying a majority in this Parliament with them, are giving the government this ineffectual assistance, and are drawing from us vast sums to supply Confederate Armies, and Armies of our own abroad: as if this were really to do us good, would avail any thing, and were our proper method of securing ourselves; whilst our sea-practice (whence should be drawn the French's ruin, but whence our own is now) lies in the shamefullest condition that can be. What signifies it, that we have a number of huge ships to sail about together a month or two in the Summer; if still the French keep all they have in the West-Indies, and the means that they have there (if not taken from them) of breeding sea-men, above all the world besides; if here, in our seas, they breed vast numbers, and set out numerous and mighty ships out of the spoil of us and our ships; if trading be not safe for us; our seas being to us shut up, and Sweeds, Danes, Portugees, and other nations to whom the sea is free, growing into trade, and carrying all Supplies (which thus we cannot hinder) into France?—It is plain, that if we cannot alter this, we certainly must sink. It is against this, that we should turn all our power, our riches; which would not then be doubly lost in being given amongst foreigners, from England, never to return thither; and being given besides, in vain. It is towards this we should turn all our care and counsels; and therefore, if the good Genius of England has not power enough, by patriots within it, to alter this Administration, all is in vain, and we must fall.—That in this respect, we do now every thing so improperly, every thing so wastefully that we pretend to do; and that there is so little a part aimed at or intended, of what might farther be done by us than is attempted under the present management; there is indeed no wonder. When of all parts of our government, there is not any more loose, more inconsistent, more corrupt, than that part which regards our Sea-Affair. We have no Council, no Committee for Trade established, nothing of any office instituted, or officers properly qualified and empowered to inspect our Trade, to report the condition of it, and propose the Regulations necessary, to our parliament; insomuch, that that assembly is forced, upon occasions, to have recourse to the merchants themselves, to be instructed, and are often at a loss, and (as in the East-India business) in a likelihood of ruining trade, by having their only information in those nice matters from such as are surely interested one way or other. Our Offices of Admiralty and the like, are disposed of in gifts to men of intrigue: and (as the world has now sufficiently remarked) he that by his skill can work a Party, delay or bring on a business in the Parliament, and has the House-Craft, is recommending to the steering of a Fleet, and the ordering of our Naval Force. All is of a piece; and throughout all the Places, any way relating to this great trust, down to the very inferior officers in single Ships, Bribery and Cabal does every thing.—If this go on, as has been shewn, England sinks, whoever rises: we are exposed to the last misery, and a foundation at this rate is laying for such a state as was before represented. And now, at this present time, if the house of commons carry not what they have begun upon the Admiralty, to a real thorough reformation in all those affairs, however the others are suffered to lie; if our force at sea, and the natural strength that way, which we have yet left amongst us, be not by their ordering otherwise exerted; other guess encouragements set up for sea-men; the sea-soldiering, the very vocation itself, by a better usage of those that follow it, made more advantageous than as it now stands, that it may draw in more than any other, and not be, as it is, the most justly declinable, and ready to be abandoned by those that are already in; if there be not another-guess rewarding of those that serve well; the proper methods set up to clear us of the French cruizers, and their privateers; fit ships, with right regulation, applied to that work; the dealing with them not left (so as it now is) as an ungrateful work only, but the reducing of them made (by rewards fitted to such service, as well for privateers and adventurers of our own, as for the ships of the public) an employment most advantageous, and which may be heartily undertaken by those that so expose themselves: in short, whatever ill performance, unskilfulness and corruption be suffered in any other part of our government; however matters may go in Westminster-Hall; however the Chancery be filled, or any offices in the nation that are to do right amongst particulars of that body; however any other part of the ministry stand, according to whatsoever Party: if our parliament do not now right our country in this concern; do not redress and assure this part of our administration, in hands they can intrust, and shall have power over to make faithful; and by their own management (for it will be by no other) save thus what we are losing not only to the French, but to all other foreigners that use the Sea; if they do not thus much, and suddenly set us in another course to regain what is past, and do our utmost here; however great these Armies and Confederacies sound, that fill so many heads at present; whatever pomp and grandeur in this government hinders them from dreaming any insecurity in it; I fear they will not long be possessors of the power that accompanies them now in their Seats at Westminster, nor be the masters long of those estates that give them now the places they have there. Their giving Millions so liberally, will but hasten the business: though many give their concurrence to this most unprovident way of giving, and to the methods proportionable, of raising what is thus given; not as unsensible of mismanagement, but out of mere fear of being over-run.

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But it is ordinary to see men in their fears run more directly upon their ruin; when terrified they strive most earnestly to avoid it. Yet if they would act rationally, according to what they fear, why is not the Fleet first secured? Why is not that Money first found out, secured on the best Funds, and well appropriated, that the money really given to that may not least serve that purpose; that it may not run a common risk with the other money expected to be raised; nor the necessary Charge of our Navy run the same danger of being unsupplied, as any of those exorbitant and unnecessary Charges we are to be at besides? What if there be found stops and difficulties; if the money fails for these latter expences, must it fail too for our great and perhaps only necessary expence, that of our ships and seamen?—Whatever be, this must be looked to. And (to join all to what I have shown before) he that is an Englishman in any party, and forgets this, knows not that he is drawing on his own and country's ruin, in the prospect of establishing his country by means of that Party, or together with that Party's interest which he follows: for though a peace should be concluded at last, according to the scope of king James's party, by which that king should be made to be acknowledged; or though the adherents to king William that are supporting him his way, should see him prevailing with his land-forces, and France reduced to such a peace as should cause the acknowledgment of king William here; yet at the end of all this, if by that time the work that is now doing apace be brought to its effect, and we left inferiors at sea, cheated and beaten out of our Trade, and perished in our Naval Power, with nothing but a power at land to defend us: all the advantage that the Party of Englishmen then prevailing will obtain, besides their triumph, or their revenge over their adversaries, will be to hold a government under the force of a foreigner, and which can be held no otherwise; and to give us ever after for a government, that which shall be enforced by the nation or prince left with the strongest force abroad, together with the honour of being thenceforward constantly the test of power and precedency to the contending states of Europe, by falling always to their lot who can force others hence and place themselves.—Now, if there be an Englishman in these Parties that will thoroughly think, I appeal to him, if what we do altogether in Parliament, or what each party drives at singly, is like to bring any happiness to one whose country is England. If the removing one ministry for another; the getting men, or keeping men in place for only party-merits; the driving in the common manner, for the interest of this court or that, for the court now undermost, by endeavouring to embroil our sea affairs, bring us loss of Trade and ruin of shipping, that by such misery the people may (as those think) be induced to abandon this government: and for the interest of the present court, by complying with any sort of methods it takes, however censured at other times; by advancing prerogative at a time which is the only ever to be hoped for to bring it down from its encroachments, and to confirm the Rights of the people, which are hardly supportable under the weight yet left in some fundamental points: by gaining Acts for multiplying of Treasons, instead of securing us from the power that the crown now has of making Treason too easily out of any thing: by the justifying of any Commitments as well as Trials; the setting on foot (to a vexatious end and no other) needless severe Oaths, so extensive and generally to be enforced, for the punishment only of mens consciences, or the taking away of all conscience, so as to lose the benefit of all oaths in any case; a thing so destructive to all government, and (to our great misery) begun already to be felt amongst us, and encreasing daily by the commonness that oaths are exposed to in serving every turn. In fine, by giving away all our wealth to the managers of the court in prodigious sums; such as, if possible, would suffice their greediness, and surmount their lavishment; whilst still the matters of our Ocean (that Ocean that should be ours) stand as they do: I appeal, as I have said, to any rational man of my country, that can lay aside passion whilst he thinks, whether this tends to any thing but ruin.—What after this may be expected should be said on what now should be done, I leave to inference; for I have said enough already, and need not repeat.—I have said what it is that should be previous to every regard an Englishman can have; what it is that only can make the success of an English Party a success of their own, or advantageous to them, their friends or their posterity: and when such a regard as this is in a contrary-wise changed, or but neglected; what sort of service those whose interest is tied to England, is like to do themselves with their mighty heat and zeal in other matters that they are pursuing. And in all this, if I shall not have been able to turn men towards any public action, or better method of managing that may tend to our recovery; yet, at least, I may have given them so far to think on certain things, as may turn perhaps some from that heat and fury they act with (of themselves, or led by other people) in the service of some interests, which when they understand, they will not think of serving as they do.

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N° VI.

Some Considerations about the most proper Way of Raising Money in the present Conjuncture. Printed about the Year 1692.

Written by John Hampden, Esq.*

THERE has happened nothing more memorable in this age, nor in which the Providence of God has been more signally remarkable, than the late Revolution of the Government in these kingdoms. The changes in Naples and Portugal were not more surprizing, than what our eyes have seen in our own native country: nor were the oppressions under which we laboured, and the ruin which threatened us, less dreadful than that which caused the revolt of those kingdoms from those who abused the trust of government to tyrannize over them. Our Laws were trampled under foot, and upon the matter abolished, to set up Will and Pleasure in their room, under the cant and pretence of Dispensing Power. Our Constitution was overthrown by the trick of new Charters; and by closeting and corrupting Members of Parliament, men were required, under pain of the highest displeasure, to consent and concur to the sacrificing their Religion, and the Liberty of their country. The worthiest, honestest and bravest men in England had been barbarously murdered; and to aggravate the injustice which was done them, all had been varnished over with a colour of Law, and the formality of Trials, not unlike the case of Naboth and Ahab. Those whom the Law had declared traitors, were, in defiance of the national authority, introduced into our councils, and the conduct of affairs put into their hands. — Our Universities were invaded by open force; those who were in the lawful possession of the government of Colleges turned out, and Papists sent thither in their room; and if that attempt had throughly prospered, the churches and pulpits would soon have followed.—It were vain to go about to enumerate particulars. In a word, the nation was undone. All was lost. The Judges were suborned or threatened to declare, that the king was master of all the laws; and the bishops were required to publish this new-created prerogative in all the Churches of England, by the mouths of the clergy; which when some of them refused to do, representing to the king, with the utmost submission and modesty, that neither conscience nor justice permitted them to do what he desired, they were prosecuted at law, as if they had been guilty of some great crime. Letters were written and intercepted, by which it appeared evidently, that the change of our Religion was determined, and that Popery was to be brought in with all speed, lest the opportunity should be lost. And for the better compassing this pious design, our civil and parliamentary right were to be taken away, *in ordine ad spirituale*. And when the nation, and those who were concerned for it, being terrified by the greatness of the danger, would have compounded so far, as to have taken away the penal laws against Papists, and so have set them upon a level with other English subjects, provided the Test might have been continued, and the government secured from falling into the hands of that faction, all such offers were despised and rejected with scorn: nor would any thing content the bigotry and arbitrary humour of those who were then in the saddle, less than the total enslaving of the nation, and the re-establishment of that idolatrous Religion, from which our ancestors had freed themselves with so much bravery and generosity, in the beginning of the last century.

This deplorable state of things awakened the minds of those of our gentry and nobility, who had any thing remaining in them of that English love of liberty and impatience of slavery, which has so often rescued this nation from the brink of ruin. They saw to what the necessity of self-defence obliged them, and resolved to shake off the yoke they could not bear. And in order to this, many of them (as we all know) applied themselves to some principal members of the States-General of the United Provinces, and to the prince of Orange (their Stat-holder and Captain-General) representing to them how nearly they were concerned in what then passed in England, which was but one branch of the design driven on by the French king, and his adherents, for enslaving all Europe, and rooting out what they called the Northern Heresy, both name and thing. They shewed them, that if they suffered the conspiracy of our common enemies to go on any further, they would infallibly be involved in our ruin, and that very speedily; and must necessarily fall under the French yoke, of which they had felt the weight in the years 1672, and 1673, and had lately heard more of it from those great numbers of persecuted French Protestants who had taken refuge in their country. They intimated how glorious it would be for them to become the sanctuary of oppressed innocence.—And lastly, they put them in mind of what had heretofore been done for their Republic by the English nation, when they had newly cast off the Spanish tyranny, and were forced to implore the succour of their neighbours against a power which then carried on the same designs, and much by the same

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* State Tracts, published during the Reign of William III. vol. ii. p. 309.

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methods, which we have seen copied from them by the French in our time. They convinced them, that all reasons of gratitude, humanity, policy and Christianity concurred to incline them to comply with their request, in putting to their helping hand for the opposing a bank to that torrent which otherwise would overflow all Christendom. Neither was this business of a nature to admit any delay. Our patriots made them see, and proved to them by reasons unanswerable (which are now obvious to every one's observation) that if they slipped the opportunity then in their hands, by the French king's drawing his forces to the Upper Rhine, to begin the war by the siege of Philipsburg (which was occasioned by the false intelligence he had received from his ambassador and pensioners in our court, who being intoxicated with some late successes, despised the people at a great rate, and thought it below them to get information of those they called the male-contents) I say, if they let pass that occasion of helping us, it would, in all probability, be too late to attempt any thing hereafter; the two kings hoping by their joint forces and counsels in a short time, to put both the Dutch and English out of a capacity of disputing their pleasure.—All these arguments, and the instances of our worthy country-men, prevailed to that degree, that the Dutch resolved upon lending us their best troops, and actually sent them over, under the conduct of the Prince of Orange, who found the nation as well disposed to receive him as could be expected from a people who had suffered so much already, and looked for worse every day than other.

At the time of the Prince's landing, several great lords and such gentlemen who had courage enough to expose their lives and estates for the deliverance of their country, appeared in arms, as had been concerted; and what the success of this heroick undertaking was we all know; and every good man still blesses God for his goodness to this nation, in prospering and rendering effectual so just and pious an enterprize. And although the Dutch found their account, as well as we, in the success of this glorious action; and besides, the English parliament recompensed them fully for the Charge they had been at in this Expedition, paying them 600,000*l.* which was the sum of money they demanded; yet there is no true Englishman, nor virtuous man amongst us, who will not think himself bound, upon all occasions, to acknowledge the unspeakable obligation we have to that wise and generous Republic, for assisting us in the time of our distress, as we had formerly done by them, when they were in a like extremity. Not that the Dutch can pretend (what some parasites among ourselves have fondly imagined and printed) to have acquired by their arms a Right of Conquest over us, no more than we had done over them an hundred years ago, when we sent them assistance against the Spaniard, or M. Schomberg over the Portuguese, when he led an army for their deliverance. But as then, so now, a people oppressed and unjustly insulted over, by those who should protect them and study their happiness, having first tried all fair means, and used all sorts of submissions to touch the hearts, and change the minds of their cruel oppressors, and at length finding all such means ineffectual, do invoke the assistance of their neighbours, who finding it their interest, upon many accounts, to prevent the ruin of those that call upon them for aid, and withal commiserating their sad and desperate condition, do assist them with their armies and fleets to prevent the destruction coming upon them; which endeavours, in conjunction with those of the oppressed nation, God having crowned with the desired success, it may well excite in the hearts of those who have been thus helped, a very high degree of gratitude, and may be a foundation of lasting union and friendship between the two nations, but can by no means give either of them any right of conquest or pre-eminence of authority over the other, no more than if a man's house were on fire, his neighbour would acquire any right of propriety in it by helping to quench it. This I should not have mentioned, but for the petulancy of some flatterers, who would make us believe we have brought ourselves under a more absolute condition of slavery, by taking up arms, than we were in before; which was so far from the thoughts of our ancestors in the like case, that neither queen Elizabeth, the earl of Leicester, nor any other person who had a hand in the Deliverance of the Dutch from the tyranny of the Spaniards, ever dreamt of having gotten any title of power over them by what they had done for them, nor ever demanded or exercised any other than what was intrusted in their hands by the Dutch themselves, as long as they thought it necessary for their own good.—And our present king is so far from having any thoughts of this kind, that we know from the learned Prelate who preached his Coronation-Sermon, that there is nothing he detests more than the imputation or suspicion of a Conquest. Which is an evident proof, not only of his majesty's good intentions to this kingdom, but likewise of his great wisdom, and the soundness of his judgment; since if we were conquered, we should fall under the Dutch Republic, having been conquered by their men and money, and so our government would no longer be a monarchy, but we should be a province, or part of that commonwealth.

But to return where I left off: things being brought about in this manner, as we all know, and king James being run away, the nation, though justly incensed against him, did not think fit to change the antient form of government, but set the crown upon the head of the present king and queen (with such limitations as they thought necessary) being willing for the first part (according to the custom of our ancestors, both in the Saxon times and since, upon the deposition of kings for his government)

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to take the next in blood, if there was no reasonable objection; and at the same time, to shew their thankfulness to the then prince of Orange, for the share he had in our Deliverance, by heading our patriots, and leading the Dutch army, they associated him in the throne with the queen his wife, as may be seen in the Act which constitutes and directs the administration of this present government. This was thought safer and better than any new Scheme of Government, or than a Regency, which yet was debated, and put to the question in both houses: and presently after, a War was declared against France, and such a Confederacy entered into by this nation, both with the Dutch, and several other princes and states, as has already produced very good effects, and it may be hoped (with God's blessing and good management) will be effectual to humble the haughty French monarch, and to settle us once again upon the foundations of Religion and Liberty, not easily to be shaken.—It will be readily granted by all wise and well-intentionated persons, that the safety and highest interest of the nation does absolutely require the support of this present government, and the maintaining of the Confederacy into which we are entered. If any man doubts this, let him recal to mind the miserable condition in which we were four years ago, when we were bidding adieu to all that was dear to us, our Religion, our Laws, and our Liberties, which the Popish Faction had swallowed up in imagination, and would have done so effectually, if God had not appeared for us in a miraculous manner. Let such a man lay his hand upon his heart, and consider how the French king has treated his fellow-protestants, contrary to the faith of all promises, oaths and edicts made by himself and his ancestors, surpassing the barbarity both of antient and latter persecutors. Let him remember the strict union of interest and counsels that was between that king and king James, who both drove on the same design of exterminating hereticks, and rooting the remainders of Liberty out of the World, insomuch that we see the French king has made king's James's cause his own; and no body doubts, or can doubt, but if he should ever recover the possession of these kingdoms, it would be only to hold them in quality of the French king's lieutenant, to whose ambition and bigotry we must all be sacrificed. I say, let any man who makes it a question, whether it be necessary to support this government, and enable it to go on with the Confederacy, revolve these things in his mind, and at the same time figure to himself, in case our government, for want of Supply, should not be able to carry on the war, and so we should again be over-run, and reduced under the yoke of our enemies, with what redoubled rage and fury they would return upon us, under the colour of recovering their Right, and punishing Rebellion; and how little appearance there would be, after this, of any new opportunity of Deliverance, or of a possibility to hold up the Protestant religion in any part of the world, after the destruction of its professors in England and Holland, which I join to each other, because we all know their interests are now inseparable, and they must stand and fall together. And if after all this, any one can be backward in doing his utmost to make good what we have done in this Revolution, or be willing we should fall back into that gulph of misery and confusion from whence we are so lately escaped (which will be the infallible effect of not supporting this Government and Confederacy) I confess I have no more to say to such a man.

But to come to the main design of this Discourse: it is certainly impossible, in the present state of things, that this government should subsist, and much less be able to bear its part in the Alliance against our common enemies, unless there be great sums of money given. Those are the sinews of war, and all other business. Our dear-bought experience has taught us what vast Taxes are absolutely necessary to maintain those Armies and Fleets which are requisite for our security, and for the defence of our religious and civil Rights: and provided we attain those ends, it will not be thought, at long-run, we have bought them too dear. In this case we may well say, *dimidium plus toto.* A wise and a good man will rather chuse (if it came to that pass) to enjoy one half of his estate, with the liberty of his conscience and the preservation of his birth-right, than to possess a double or treble proportion of riches, whilst his mind must be enslaved to the superstition of knavish and interested priests, his innocent friends and country-men sacrificed to the idol of arbitary Power (as we have lately seen it practised) and the title that is left him to his own Possession and liberty, only precarious and during pleasure. Our good neighbours and allies the Dutch do not think much of the Charge they were at in freeing themselves from the oppression of the Spaniards, nor of that they have been forced to undergo for the maintaining their country and liberty against the insults of the French king, though they had been forced some years to pay half their Revenue, and sometimes all, and more than all, for carrying on of the war. The Suisses do not regret the hazardous and chargeable effort which they made to deliver themselves from the intolerable tyranny of the house of Austria, nor the infinite numbers of men, and the money that has been employed since that time to make good what was then done: provided that warlike nation always prefer the love of liberty derived to them from their ancestors, before the love of money (with which their enemies endeavour to corrupt them) they have nothing to fear. Nay, in France itself, which is the centre of tyranny, and where even men's minds are enslaved and captivated by the artifice of priests and scribbling court sycophants, and the very love and desire of Liberty is lost (which as-

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suredly is the utmost of all misfortunes) there are yet some persons, as we see by several writings, who aspire after a Deliverance, and would willingly hazard their lives, and part with what they have most precious, to vindicate their country from the barbarous and inhuman tyranny under which it groans; and if they were happy enough to compass the execution of so noble and virtuous a design, they would think no charge nor no expence too great to maintain those Rights and Privileges which have been heretofore enjoyed by their ancestors, and of which they have been so unjustly robbed, without any prospect of redress, ever since their kings grew strong enough to govern them, without assembling the States of the country. And since that time they have made a shift, by the assistance of priests and mercenary upstarts, raised by themselves to favour their arbitrary purposes, to bring that nation to a pass, which has given occasion to some, who have long voyaged in the eastern parts of the world, to affirm, that there is more tyranny effectually practised in France in one year, than in all those parts in twenty; the princes of those countries not having learned to refine in those diabolical politics to that degree, which the French have arrived at.—To this purpose I cannot but mention what was said to me at Paris ten years ago, by the great historian M. de Mezeray, whom I knew very particularly, and who was a man of great worth and virtue, and therefore very ill used by the ministry of France. Discoursing with him about the difference of the government in France and England, he broke out into this expression; 'O fortunatos nimium, bona si sua norint, Angligenas! We had once,' said he, 'in France the same happiness, and the same privileges which you have. Our Laws were made by representatives of our own chusing; our Money was not taken from us, but by our own consent; our Kings were subject to the rules of law and reason,' with many other things of that kind, which he added, 'but now alas! we are miserable, and all is lost. Think nothing, sir, too dear to maintain these precious advantages; and if ever there be occasion, venture your life, your estate, and all you have, rather than submit to the miserable condition to which you see us reduced.' These words, with what I actually saw of the misery of that country, made an impression in me which nothing can efface.

The question therefore with all sober men and sincere Protestants, will not be, Whether we shall maintain our Liberty, by supporting this Government, and enabling it to carry on the war? nor consequently, Whether we shall raise Sums of Money proportionable to that end? but only what will be the best manner and method of raising Money, so as may be most for the ease of the subject, and above all, for the upholding our constitution, and securing those ends for which we took up arms? And that was not any personal regard whatsoever, but the recovery and security of our Rights and Liberties, which had been so unjustly invaded. This is the thing we must always keep in our eye, and steer our whole course by this pole-star; otherwise the hazards we have hitherto exposed ourselves to, and the success with which God has blessed us, will little avail us, whilst by flying one extreme we run into another; or, to use the old proverb, 'by avoiding Scylla fall into Charybdis.'—The way which has been most discoursed of by some who pretend a great zeal for the present government, and which seems to be most agreeable to some people, is to lay a Home-Excise upon things eatable and drinkable, and several other merchandizes which are sold in the market: this is the way used in Holland, and the like was practised in England in the time of our Civil Wars. But because I cannot approve this manner of Taxing at this time in this kingdom, as thinking it of the utmost hazard in this beginning of our Settlement, and apparently destructive to the ends of it, I shall set down my Reasons, with as much plainness as I can, together with some that were mentioned the last session of parliament by some worthy members of the house of commons, that so if other men be convinced by them, I may have the satisfaction of reflecting, that I have been useful in some degree in suggesting those things, which may contribute to the maintaining and continuing the liberty of my country; which as it is dear to me above all things in the world, so in my humble opinion, it is very much concerned in this point.

My first two considerations in reference to such an Excise, are, That if the parliament should grant it, they neither know what they grant, nor can ever hope to see an end of such a Grant as that is. To make this out, I shall give a short Historical Account of the Excise now in being, that so we may judge of Hercules by his foot; which, I think, will afford us such measures as cannot easily deceive us.—Our ancestors, whose chief care it was to maintain those Rights and Privileges which distinguished them so advantageously from all the other people of these western parts of Europe, and who delivered those Privileges to us as our best inheritance, did constantly avoid this sort of Tax, knowing its danger, and abhorring the servile look of Bureaux in their market-places, and miserable fellows to come into their houses like searchers, as if they had hid some criminal, or concealed some arms or papers to the prejudice of the government. It could not enter into their heads that a leg of mutton ought to suspected for treason, or a loin of beef, which was thought worthy to be knighted by some of our kings, should be accused of conspiring against the state.—This example of our ancestors, with the good success it has had, I should think, ought to weigh a great deal with us in a matter of this importance; to which if we add the condition of the French, and others of our neighbours, who are loaded with an infinite number of Entries, Imposts, in a word, Excises of all sorts (which at first were con-

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trived and imposed upon specious pretences of great necessity of the state, but never were, nor will be let go by those who have found the sweetness of them) this will add great force to our argument. But we must come nearer the point, and shew how lately, and in what manner, Excises have been raised in England, and what use has been made of them, together with the artifices by which they have been procured. —The first Excise raised in England, was in the time of our Civil Troubles and Disorders: neither did those who raised it adventure upon this way, till they had tried all others to supply the necessities into which they had brought themselves. They had seized into their hands the Revenues both of the Crown and Church, and exposed them to sale; men's estates had been sequestered, and their property invaded and destroyed, under the name of Delinquents; and when the money was spent which had been raised by these oppressive methods, they then set up this way of Excise. But that had not been paid neither at that time, but for the Army which was then kept up, as appeared in the Sedition of the Butchers and others upon that occasion.—Nor did they who imposed the Excise in those days, omit any thing that might help to sweeten so bitter a potion, and persuade the people to swallow it with the less reluctancy. They urged the great necessity there was of it at that time, which was at least equal for those who then raised it, with any that can be now pretended to carry on this war. To make it pass the easier, they begun it in the most modest way they could devise; if I mistake not, it was at first but for a month or two, or three months at most: they were sensible how averse the nation was to this way of Taxing, and therefore they durst not, in their first attempt, adventure farther. When the necessity of their affairs, and the straits in which they found themselves, forced them to go on with the Excise, yet they would persuade the people, it should last but a little while, and be presently over; but for all that pretence, we know too well it has not ceased to this very day. When the Serpent gets his head into a hole, it is no hard matter for him to draw his whole body after it. Wise men, like good physicians, must oppose the beginnings of evils; it is easy to prevent mischiefs, which it is not easy, nor possible, to remedy. The ability of politicians is known by their foreseeing and obviating inconveniences, too strong to be removed when they are once established. *'Turpius ejicitur quam non admittitur hospes.'*

Soon after the Restoration of k. Charles 2 the house of commons expressed a desire, as their predecessors had often done, to take away the Court of Wards, and they had long deliberations how to settle upon the Crown a recompence for it. Many ways were proposed (as is usual in such cases) but at last it was thought best to lay it on land; and they agreed the sum to be 100,000*l.* per annum, and appointed a Committee to settle an equal rate upon every county towards it. This would have procured another great advantage to the nation, and especially to the associated counties and others that are over-taxed in the Monthly Assessment, by bringing in a just and equal way of taxing all the Lands of England according to their true value. The committee, in pursuance of the order of the house, having taken great pains in settling a new Rate, at length agreed upon one, and reported it to the house, and it is entered in the Journal. But while they were taking all these pains, the court was privately informed by some self-designing men, that it would be of much greater advantage to them to get a Grant of the Excise upon Beer and Ale, since the value of that was unknown; and they assured them, that it would amount to a sum vastly beyond what the parliament intended them in lieu of the Court of Wards. These men encouraged the Court to undertake this work, and promised their own assistance and endeavours for the success of their proposal. Hereupon the Court resolved to push for the settling of the whole Excise, and by threatening privately the members of that house with a dissolution, and by giving to some considerable places, they got a question put to settle one Moiety of the Excise (which had been invented and raised on evident necessity in the times of civil war, and not granted longer than a few months) upon the Crown in Fee, in lieu of the Court of Wards, and the other Moiety on the king for his life.—The former part, to give the Moiety in Fee in recompence of the Wardships, was carried in the affirmative, though, in truth, it was the giving 300,000*l.* a year for one, for which that house is justly blamed, and will be so, as ill husbands for the kingdom, and unfaithful to their trust. A great parliament-man, lately deceased, undertook to make out, it was giving away the Barly-land of England.—The other part, viz. to give the other Moiety for life (as much as that house was influenced by the court) was first carried in the negative; which enraged them to such a degree, that the next day a Message was sent to the house, to let them know they were to be dissolved a month after. This was a strange and unusual Message, they might have been quickened to dispatch public Bills, and told, the session would be but short; but the Message, as sent, put men throughout the kingdom on supplanting them. If the members staid in town (and go they could not without leave of the house) their several interests in their countries were indangered: if they went down, the settling the Excise for life might be carried in their absence. This was the dilemma the Court had brought them to, and accordingly it was granted before that session ended.*

All this was compassed by the artifices and clamours of the Court-Party, who we since have seen aimed at nothing lower than the getting such a Revenue in the possession of the Crown, as might have enabled them to go-

* See vol. iv. p. 149.

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vern by Arbitrary Power, and abolish Parliaments. They pleaded an absolute necessity (as some men do now in their discourses about the town) for what they demanded; but there was indeed no necessity, when king Charles returned, to give him the Excise. It is true, he had great occasions, on his return, for Money; but the parliament, after the Excise given, found out other ways, both by land and otherwise, to give great sums, and by such ways they might have supplied him then without the Excise. It is allowed, his Revenue was fit to be enlarged beyond that of his ancestors, because the constant charge of the government was greater; but this was no reason for an Excise. The putting a bar upon Crown-Grants of the Revenue, and appropriating the forfeited Estates of the Crown, would soon have done more than the Excise was then valued at, one moiety being given for the Wardships, which the court valued but at 100,000*l.* per annum.—If it were fit at that time to raise the yearly Revenue to 1,200,000*l.* per annum (though that was more by 400,000*l.* than the yearly Establishment and Charge of the Crown then, or for many years after, came to) if the Parliament of 1660 could not, at once, bring it to that, they might have gone as far as they could without the Excise, and left it to other parliaments to make it up. They gave the Crown, without counting the Excise, a greater Revenue than ever it had, or than it could pretend to spend in time of peace; and accordingly we see what amazing sums were expended every year, out of what was pretended to be absolutely necessary for the support of the Government, in ways not to be mentioned or remembered, but only in order to prevent the like for the future.

And when this was given, all that parliament got, by their zeal to settle 1,200,000*l.* per annum, was, That the Court, next parliament, pretended it was not so much as was intended; and therefore got, by influencing Committees, such Reports, upon which they obtained 2 or 300,000*l.* more added to the standing Revenue. —Upon the demise of king Charles, what necessity was there to continue the Excise to king James, I mean the Moiety then determined? Could any thing under a Popish prince be a greater security to the Protestant Religion and liberty of the kingdom, than the smallness of the Revenue? And was it not the main argument of king Charles and the Clergy, against passing the Bill of Exclusion? They urged, that though the crown should come to a Popish Successor, he could not be able to force his religion upon the nation, by reason of the falling off of the one half of the Excise at king Charles's death, and thereby the ceasing of so great a branch of the Revenue. Which if it had been kept low, or moderately enlarged for a time, a short time, if the commons could but agree among themselves, they might have stopped all invasion of property, or danger of tyranny.—If ever such a Revenue would have been let fall, no doubt it would have been then. But we see, in the instance of king James's parliament, when Excise is once begun, there is no end of it to be expected. That parliament gave him for his life what was fallen, and not only so, but an increase upon Linen, Wine, Tobacco, &c. worth near the double. Had king James continued among us, I doubt not, this new Excise would have been continued; nor do I doubt, whenever such Grants are made, upon pretence of a present necessity, but there will be arts and methods found out by those in the ministry, to have them perpetuated. When once an Excise is up, we see it must be kept on. It is easy to find a necessity for it; and where that is wanting, yet one parliament must be as kind as another, or else it is want of respect to the present crowned head. —I think there was never but one Excise raised that ever fell again, and that was the additional Excise given in the reign of king Charles for years; and yet even that, though it ceased some time, was again revived by the last parliament, and so continueth.—This principle, that the house must ever be as kind to the present government, as their predecessors were to others, will carry things at any time against the interest of the kingdom; and therefore Money should not be raised by the commons in that manner, in which the house may be pressed with arguments they have formerly experienced have wrought on their good natures, beyond the interest of their countries who sent them. —If it be said, Are not the parliament masters of their own resolutions, and may not they safely trust themselves, since it is in their power to put an end to an Excise, whenever they think there is no farther occasion for it? To this I answer, They are not so much masters of their Resolutions as some think; solicitations go a great way, pretences are specious, men are frail, taxes of this kind do not immediately touch the members of parliament themselves, who are landed men, and therefore not so directly concerned to get them off. To this I add, That our wisest and best policy is to keep a Parliament out of temptation of doing that which may prove the ruin of the nation. Men do not care for being thought disaffected to a government, as it is always thrown in their dish, if they offer at diminishing any Revenue that has been given, and are not as forward as other people to gratify the crown and the ministers in all their expectations.— There was not long ago an instance of this in parliament: it appeared to the commons, that besides all Grants of Lands by king Charles and king James, there was above 200,000*l.* per annum charge laid on the Revenue; and therefore to prevent the like for the future, and that the court might not, when they pleased, without parliament, tax us by their patents, which our estates must make up, there was a Proviso added to the bill for settling the hereditary Revenue, to make all Grants void against a successor. And though, besides the reasons above-mentioned, the state of affairs, and the charge of making war, now so much

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greater than formerly, required such provision; yet how heinously and spitefully was it represented by some, as if it proceeded only from prejudice to king William? So that though the Act went through the house of commons, to be lodged with the lords, with them it slept.

I insist the more upon this observation, That Excise raised once (though on pretence of the greatest necessity, and that it shall be only temporary, and but for a short time) never fails by one means or other, to be continued, because I desire the importance of the thing may be considered; and in case it should so fall out in the Excise, which now some seem to desire, it ought sure, at least, seriously to be considered, what our case will be thereupon.—We know very well, that 800,000*l.* per ann. or thereabouts, with good husbandry, will discharge all the Expences of the Government in time of peace; therefore in 1660, when the court had screwed their demands to the highest, they desired only the standing Revenue to be 1,200,000*l.* and whatever they got afterwards, was not on pretence that more was necessary, but that they had not so much.—That very standing Revenue which was settled in king Charles's time was so great, that every body remembers, when a great Army was raised, the house of commons was tried to give but one 300,000*l.* per ann. more, which if they could have got, no one doubts but it was designed there should have been an end of Parliaments. And that very thing was prest so handsomely, and so much to the purpose by some, who were then members of the house of commons, that the very Pensioners of that parliament voted against the augmentation of the Revenue which was desired, lest parliaments should end all at once, and their Pensions with them.—The Revenue now in time of peace will yield, above all Charges, 1,500,000*l.* per ann.; if more be given in this way of Excise, and it should be continued, it is the giving up the very being of parliaments.

There are still many other Reasons against this way of taxing by an Excise.—I have shewed already, that this is a giving men know not what: that Moiety of the Excise given in 1660 for 100,000*l.* per ann. hath since proved worth three and a half: that which king Charles desired as 300,000*l.* when it was got by king James, proved to be worth more than double that value. And to this I may add, That the more such Revenues prove, if they should be continued, the more dangerous for the nation. —This is a troublesome and a slavish sort of tax. The present government came in upon a foot of Liberty: what was the reason that the Chimney-money was taken off, but only this, That every man might have his house free? Shall the nation be mocked by taking off a feather, and in the room of it laying on a millstone? This is a way to bring a lord-Dane into every one of our families.—The difficulty of raising this tax will be very great, the people of England disrelish it extremely. I have heard some of the wisest and honestest members of the house of commons say, They would be hanged up at the door of the house, before they would consent to it. All that lived in the late times remember with what difficulty the Excise was raised by those who were then in the government; and it is certain they could never have compassed it, but for the terror of the Army then kept up. Now if the parliament should raise Money in this way to pay our Army, and should be necessitated, as they were, to keep up a Standing Army to gather it, we shall be at a fine pass. The Money must be raised to pay our armies, that they may carry on the war vigorously against our enemies; but instead of any such service from them, they must be kept at home to raise the Excise.—The common argument for an Excise, that it will spare our lands, is grounded upon a false supposition: this is not a sparing our lands, but a charging them for ever with double what is needful. The dearer the farmer pays for his commodities, the less rent he will pay; and the less his product yields him clear, accordingly he must value his farm. The more (for example) is laid on lead, the less will wood and oar yield; and so of other commodities.—The greatest Excises which are laid in Holland, are upon commodities which are not of the growth of the country: their corn comes from Dantzick, their flesh from Denmark, and so of several other things; so that by loading them, they oblige their people to consume the goods of their own growth and country, such as cheese, milk, herrings, &c. Whereas if an Excise be laid here, it must be upon things growing in this kingdom, which undoubtedly will hinder the consumption of such things; for the dearer they are, the less people will buy of them, and the more they will reduce their families, that they may live cheap.—The policy of our ancestors tended to encourage the consumption of all home-commodities, which is certainly the true interest of the nation. Such a tax would go directly against this maxim. Heretofore the gentry and nobility of England lived altogether in the country, where they continually spent the product of the land; now they all flock to London, where their way of living is quite different from that used heretofore, and they do not expend in proportion the third part of things of our product, to what they did when they lived among their neighbours. The yeomen and gentlemen of smaller estates are now, generally speaking, the only constant residents in the country. If an Excise should come to raise the price of all things, how shall these men maintain their families? And if they put them off, or diminish them, who shall spend the growth of the lands?—It is evident, this Tax will fall very hard every where upon the poor farmers; and those who are best able to pay it, will be most spared. For example; if an Excise should be laid upon Malt, where will the burden lie? The price of it will certainly sink in the country, for want of consumption, by reason of the new imposition. The brewers

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in great cities and towns, such as London, Bristol, Exeter, Norwich, &c. will be the only gainers, since they will buy their malt cheap, and sell their drink as dear or dearer than before; and the poor farmer must bear the loss, which will quickly be the cause of throwing up the lands in all parts of the kingdom.

But another thing which, I confess, with me is of the highest weight, is this: We know the safety of the nation depends upon the Liberty of Elections of members to parliament. The Excisemen go already a great way in many corporations, by their interest in inns and alehouses, in influencing the elections to parliament. What then do we think they will do when they have an interest in every private house? If there were no other objection against taxing by an Excise, I should think this one abundantly sufficient, with any man that knows how much the being and well-being of the nation depends upon Free Parliaments, and consequently upon the intire liberty of those who are electors, in giving their votes.—If such an Excise should not be general at first, yet when once that way of taxing is brought in, it will quickly grow general: if it be laid one time upon some commodities, it will next time be laid on others. All we have, will come to be exciseable; and it will be with us at length, as it is at Amsterdam, where (to use the words of one who has lately written in that country) 'a dish of Fish with its sauce, before it be served up to the table, pays Excise thirty several times.' And this indeed ought to be considered the more, because of those in our court and councils, who have been bred up in Holland, where every thing is taxed.—One thing more I must add, which is, That no tax whatever is so chargeable in the gathering, as an Excise: that which is laid already upon Beer and Ale, costs above 80,000*l.* per ann. in collecting; and if there should be a general Excise raised, it would come to near three times that sum.

My chief design in writing this Paper, was to shew the Danger of granting an Excise by act of parliament, which I hear discoursed of in several parts of the kingdom, as a way which will be offered by some to support this war, though it was debated and rejected the last session of parliament. Perhaps there may be some, who do not sufficiently apprehend the dangerous consequence of this manner of taxing; and for their service it is, that I set down my thoughts upon this matter. No man in England is more thoroughly sensible than I am, of the necessity of carrying on this war. I am of opinion, that the Liberty of this nation, the preservation of this Government, and the security of the Protestant interest throughout Europe, do mainly depend upon the success of it. I have shewed, that it is impossible to go on with it, without giving great sums of money; and I am heartily for giving those sums, when our representatives shall know what they are, by having an exact state of the war for the next year laid before them, which I presume will be their first care. This is reasonable and necessary, and more than this cannot be desired: only we would have the Taxes so laid, as when the necessity of taxing ceases, the taxes may cease with that necessity.

There are other ways of raising Money besides a General Excise. The English nation has now, at the expence of its own money and blood, reduced Ireland; must none of the Lands of those rebels, after all, be applied to the charge of this War? Is all that has been said and declared in parliament, upon that head, to no purpose? Must the Irish Papists be again restored to the possession of their estates, and so this kingdom not only brought under the necessity of maintaining a great Standing Army, to keep them from rising and cutting the Protestants throats; but likewise be defeated of the lands, which they were made believe should serve in a great measure, to reimburse them for the prodigious sums that have been advanced for the reducing of that country? I hope the wisdom of the parliament will take that matter into consideration, and not suffer themselves to be frustrated of so great a sum of money, as those Irish Lands will yield; which, if they were exposed to sale, would find purchasers enough, at such kind of rates as they were formerly sold for upon the like occasion; and the Money which should arise from them, would serve for a Fund to defray a great part of the next year's expence of the war.

It were better to return to the Chimney-money, than to load the nation with this new Excise. I do not say that ought to be done, for I think it absurd and dishonourable, after having taken off that burden so lately, with so much pompous ostentation and expression of desire to gratify the people, to lay it on anew; that would have a very ill look. But yet, I think, supposing such a necessity, it were wisdom, of two evils to take the least; and rather return under the pressure of an old burden, than submit to a greater, and run so great an hazard as that of settling a Revenue; which if continued, might give opportunity and encouragement to ill ministers of state to attempt, and perhaps achieve designs like those, which we tell the world were the cause of our joining in the late Revolution.—There are Commissioners of Public Accounts, sitting by authority of parliament, to examine how the treasure of the nation has been laid out for these last three years. It will be seen in this Report, what immoderate Pensions have been granted, and to what kind of men; and what incredible sums of money the nation has been cheated of, by those employed in civil and military trusts. I do not know why such people should not be obliged to refund; and if there be care taken for the future to prevent such abuses, the sums of money which must be raised for the defence of the nation, and the support of the government, will be very much lessened.

There will doubtless be many Proposals

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made in parliament, of different natures, for ways and methods of raising Money. Whenever there is occasion for a Tax, there is always great variety of projects of that kind. But when all is done, I humbly conceive, there will be nothing upon the whole matter found so safe, and so much for the good of the nation, as a Land-Tax. Other things may help, but this will be the main resource: it is true, this will smart while it lasts, but we are sure to have an end of it. The members of parliament themselves will be obliged in interest to take it off, when the occasion ceases; and besides, the Freeholders of England will never endure the continuance of a Land-Tax, longer than there is an evident necessity for it. This is the way which our ancestors walked in upon these occasions, and this is the safe and sure way.—It has been laid down in parliament as a good rule, to support the Government in time of peace, by taxes upon Trade; and in time of war, to have recourse to the Land, because that tax will not be in danger of being continued when the war is over.—I do not decide which of the two sorts of Taxes upon Land is best, the Monthly Assessment, or the Pound-Rate, which likewise comprehends personal estates, as far as they can be discovered. I know opinions are much divided upon this point: the Associated Counties, and some others, are much for the latter of these Taxes; the north of England and other parts for the former. Such a question is too nice to be handled by a man without doors: the choice must be determined, in this difficulty, by the wisdom of the parliament. But one thing, I think, all are for, the preserving of the Constitution, and the maintaining our Liberty, for the sake whereof all this Money is to be raised; and that is all which I am pleading for. Let no man be missed, by a pretence of convenience, or disburthening his Land in this way of taxing, all those are mistaken arguments. And though they were not so, though all the conveniences in the world were to be found in this new method, though there were ever so great ease to our lands in it; yet the single consideration of what the nation hazards in giving a Revenue, that probably will never be discontinued, and the danger to which the Liberties of the kingdom will be exposed, if ever the Crown shall be rich enough to govern without Parliaments, is abundantly sufficient to overbalance whatever can be alleged to the contrary from topics of present ease, or private interest. The Constitution, the Constitution is our happiness. Let any inconveniences be submitted to, rather than that brought into danger. We stand upon a needless point, the Revenue of the Crown is so very high already, that one remove more does our business. England can never be undone, but by its own consent; have a care then of giving that fatal consent. We have hitherto been the envy of all our neighbours for our Liberties, and the Privileges we enjoy; the greatest of which, is being governed by Laws made by our own Representatives. All we have is owing to the preservation of Parliaments, and making their frequent meetings necessary. Let Taxes be laid so, that they may cease with their cause, and so Parliaments may not become unnecessary. I shall stop here, and say no more concerning a Land-Tax, because this Paper is too long already, and because my chief intent in writing it, as I said before, was not so much to urge arguments for a Land-Tax, as to offer some considerations which might shew the Danger of a General Excise.

N° VII.

Some short CONSIDERATIONS concerning the STATE of the NATION. Printed about November, 1692.

Written by JOHN HAMPDEN, Esq.

A DAY being appointed by the house of commons for considering the State of the Nation, before the day which they have set for considering the king's Speech, we are encouraged to hope that they intend to proceed with great deliberation and caution in their debates concerning the weighty matters which now lie before them, greater than which never lay, nor can lie before any parliament; and such, as that the measures taken upon them must determine the happiness or misery of this kingdom, the preservation of our Religion, Liberty and Country, or the ruin of all.—Perhaps there never was any time in which it was more necessary to join heads and hearts for the service of our native country, that so a safe and effectual method may be agreed upon to bring the nation through the great and many difficulties it labours under, to attain the end which was proposed in the late Revolution, and in that War in which we are engaged for the defence of all that is dear unto us, against those who are the sworn enemies of our Religion and Country.—It is plain, the evils and dangers which press us are great and numerous, and we acknowledge the Parliament (which is our great State-Physician, and, under God, the

* State Tracts, published during the Reign of William III. vol. ii. p. 320.

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Remedy of all our ills) has already given a singular instance of their wisdom and care of the public, in appointing a time to consider the state and condition in which we are.—It is impossible to cure a distemper till the state of the patient be known. Matter of fact must always go first: it is in vain to imagine or propose expedients for our Relief, till we are fully informed and agreed what our case is; and when that is well understood, the nature of the disease will naturally lead to those Remedies that are most proper. This order of proceeding has always been practised in our parliaments, who never mistook when they would give themselves the time thoroughly to examine the state of things before they came to a determination. Precipitate counsels have often done us great mischief; but when matters of great importance have been freely debated and clearly understood, before any resolution was taken, the end has never been otherwise than happy.—There is not a body of men in the world, who have so noble a trust reposed in them, as that which is in the House of Commons from the people of England. Our neighbours the Dutch, though they send deputies to their States to manage their public affairs, yet limit them with Instructions and Orders beyond which they cannot go: and if any new matter of debate arise in the Assembly of their States, the deputies can do nothing till first they go or send to their Towns for new instructions. And the same I might say of limitation of trusts and powers in other governments, where deputies are appointed and authorized to act in the name of the people. But in England the case is quite otherwise; the people of this nation do intirely put themselves and their whole concerns into the hands of their Representatives in parliament. They have no distrust of them, and therefore put no manner of shackles upon them; but taking it for granted they will employ their utmost skill and wisdom for their good, they frankly entrust them with their power, purses, and all other things wherein the strength of the nation consists; that being clothed with so great and unbounded an authority, they may be the better enabled to direct the money, men, arms, shipping, and all other advantages of the nation, to the defence, safety and preservation of the whole, the care of which is their proper province.—The greatness and frankness of this trust from the people to their representatives, is the highest obligation imaginable upon all members of parliament to lay out themselves with the utmost industry and application for the service of those by whom they are thus entrusted. And this obligation is at this time greater than usual, since his majesty has been pleased so graciously in his speech, at the opening of this session of parliament, to demand the advice and assistance of the two houses in the measures which he is to follow.—If this parliament should separate what the king has so wisely joined together, and should either give assistance without advice, or assistance before advice, our affairs are ruined and the nation is undone. The order which the king has prescribed is the only one that can reasonably be followed. Counsel must go before supplies, and consideration before counsel. Since the king puts himself so generously upon the advice of his great council in this exigency of affairs, it were an injury to his goodness and sincerity, to doubt whether he will follow it when it is given; and the more maturely he sees things examined, stated and debated in the beginning of this session, the more reason he will have to follow advices grounded upon such deliberations. The thought of this inclines me to set down some few reflections upon the state of the nation at present, which is the thing now in question, and must be the ground-work of whatever can reasonably be done afterwards. If we can come but once to a right understanding whereabouts we are, and what our condition is, it will not then be difficult for us to know what we have to do: but if through want of consideration, or through misinformation, or for any other reason whatever, we neglect the discovery of our true dangers and difficulties; or if we palliate or cover those wounds which can never be cured unless they are first searched to the bottom, there is little hope of our being saved, and (which is the most killing thought of all) we must acknowledge ourselves to be the authors of our own ruin.—The first thing which occurs to me, when I consider the State of this nation, is, that we are in a state of war; and here I propose to consider both against whom, and for what ends it is that we make this war.—The enemy with whom we have to deal is the French king, who is not only our enemy, but, in some sort, may be said to be the enemy of mankind. If there be any thing dear and valuable to mankind, he has given the example of tearing and ravishing it from them, without the least pretence or colour of justice; if there be any thing sacred and binding, if contracts and engagements have any force or obliging virtue, it is he that has grounded his whole politics upon infringing and trampling upon those sacred ties, both with his own subjects and strangers. It has been the design of his whole life to establish in Europe what they call an Universal Monarchy; which may more properly be called, the enslaving of all Europe. We know and can prove the particulars of his private treaties with both our late kings, for the extirpating the remainders of liberty out of the world, by destroying the governments of England and Holland, which were looked upon by him as dangerous examples of the people's pretending to rights and privileges, and putting restrictions upon regal power.—As to our religion, we know his rancour against that, by the cruelty we have seen him exercise upon his own faithful and innocent subjects, merely because they would not quit the profession of it. His hatred to all that bear the name of Protestants, is inveterate and invincible. It is he alone that maintains our late abdicated, fugi-

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tive king against us; and who, by restoring him again, would reduce all our miseries, and engage us in new ones too great to be thought on without the utmost horror.—And as his malice against us is great, so his power is every way answerable. His armies are the most great and numerous that at any time were ever on foot in Europe. His generals and officers consummated in the trade of war. His fleets which were lately inconsiderable, are now, by the treachery of our late kings, grown so powerful, that he is able with them to look England and Holland in the face at the same time. There is no hope nor prospect of any safe peace to be made with him, unless we can destroy and ruin his power at sea, and by cutting off all manner of commerce between him and our neighbour states and princes, put a stop to those supplies of stores and provisions for his armies, which enable him to carry on the war: for if we should rely on the faith of any treaty whereby he might endeavour to deceive and lull us asleep, we should then indeed deserve neither help nor pity, since his perfidiousness and perjury are so universally known, that no one now expects he should observe any promises or engagements, any farther than he is swayed by his own interest and advantage. This enemy, thus potent, thus malicious, thus false is he with whom we have our present war.—The causes and ends of our war are both just and necessary in the highest degree: self-defence, the maintenance of our antient free government, the asserting our rights and liberties; and above all, the preservation of the Protestant religion against Popery and Idolatry, these are the ends for which we first declared, and for which we are now prosecuting this war. In a word, our business is to make good the revolution which we have compassed, and that for no other end but to maintain our antient rights and liberties delivered to us by our brave ancestors, which were so unjustly invaded in the last reigns, and for the saving and recovery whereof, we have both undertaken the war with France, and made the present establishment.. So that it appears we are engaged in a necessary war with an enemy, who must be subdued, or we ourselves intirely ruined in all respects; and this enemy so powerful and so politic, as that our utmost strength, wisdom, integrity and resolution, are requisite to manage the war against him with hopes of success. This, in short, is our case in reference to the present war.—It comes next to be considered, in what state and condition we are for the carrying on this great war, which has already lasted almost four years, and is like still to last much longer, and at length to end unhappily, if effectual measures be not taken by the parliament to manage it in such a way, and for such ends as are consistent with our ability, present condition, and true interest.—I must here make a melancholy picture, which cannot but be very disagreeable to all good English-men; but it is necessary the truth should be known, and our condition truly understood by our representatives, in whose prudent counsels, next under God, we place the hopes of our safety and deliverance from all our dangers. If this be not rightly known, they will proceed upon false suppositions, which must certainly prove fatal to us in this great juncture. And therefore I shall mention some few of my farther observations, in reference to the State of the Nation, without fearing to give offence to any one by touching upon truths which are but too obvious, and must be considered if things be intended to be put upon a right bottom, and the nation saved.—I am afraid then that we are not only in a state of war, but also in a state of decay and consuming, and that in many respects.

1. As to our shipping. It is incredible what numbers of ships we have lost since the beginning of this war. Can any man say he knows the State of the Nation at this time, or pretend to go about to redress it, unless he be first rightly informed of this particular? It is a very easy matter for the parliament to know it if they please: for the merchant-ships (of which it is said we have lost two thousand already) it is but sending to every port (which may be done thrice a week by the post) to know from them, exactly and distinctly, how many ships have been lost from each of them; and a true account of this may easily be had in a very short time. The loss of men of war will be known from the commissioners of the admiralty without difficulty. And this certainly is a point that must not be omitted, when the parliament has the State of the Nation under consideration.

2. Another complaint of decay at this time, I doubt, may too justly be made in reference to our seamen: the occasion of this decay is this; we have indeed acts of navigation, and one would think our own interest should incline us sufficiently to employ our own men in matters of trade: yet there is so great opportunity given to employ foreigners, by want of convoys, and the breeding of seamen being interrupted by the loss of so many of our ships, and giving up the Bank-fishing, and Newfoundland-fishing, in a manner intirely to the French; that our trade insensibly slips from us, our merchants are disappointed and undone, and our seamen discouraged and diminished, in whom notwithstanding consists the true strength and safeguard of this island. This must be inquired into, and the fault charged by the parliament where it is due, before they can say they have a right understanding of the State of the Nation.

3. A third instance of our decaying condition is in our trade. Not to mention again the prodigious number of trading ships taken by our enemies, and the discouragement of our seamen by employing foreigners, it is well known that all nations now drive on a free trade with France, and we alone are excepted from that benefit; while on the other hand we bear three parts in four of the charge of this war. The Swedes, Danes, Portuguese, Vene-

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tians, and others, take off the French goods as openly as ever; and the two former supply them with ships and naval stores. The Spaniards in the Netherlands maintain as open and regular a trade with them as in the time of full peace, without so much as a disguise, or the least pretence of a disguise, though we know they cannot subsist one moment without us; and therefore we may put a stop to such abuses and destructive practices whensoever we please. Those who know the condition of Denmark, know likewise that we might easily have hindered the supplies that have gone from thence to France; but though that were often advised and pressed, yet nothing could be ever procured to be done. The Dutch, who pretend to be so closely united with us in interest at this time, have private factors every where carrying on a trade with France, in the name of other nations, while we alone lose the benefit of that trade, which the rest of the allies divide among them. This must be considered and examined, as one principal branch of the present unhappy state of the nation.

4. Another proof of the decay we are under, is the loss and diminution of our Treasure, of which the king takes notice in his Speech; and this proceeds not only from hiring foreigners for convoys, and foreign importers, who carry away the money that should be divided among our English seamen and traders, as was said before, but principally from those vast sums which are sent in specie to pay our land army, little of which ever returns into England again; and that which does is so clipped and lessened that it will not pass; and from some of it I have heard it confidently affirmed, there is no less taken than four or five shillings in the pound. It is certain that every nation has but such a certain quantity of bullion, some more, some less, actually existing and being at one time within the country: if that circulates and goes from hand to hand, whatever losses private men may sustain, the public will never the more be impoverished. If the stock be increased, and the Coin augmented by Trade, the nation in proportion must needs grow richer. But if that stock be every day visibly and considerably diminished, by taking from it, and sending what is so taken to places from whence it shall never return, without any other way to make equal amends for so considerable a diminution of Money and Treasure, it is plain that such a country must fall apace into poverty, which draws all other miseries at its heels; for silver and gold are the nerves of war and all other business. Those who go into the several counties of England, hear the complaints that are made for the want of ready money: and landlords, who have so much difficulty to get rent from their tenants, need no arguments to convince them of the truth of that complaint made by the king in his speech as to this matter. This is another part of our decay to be considered and remedied.

5. Another point of decay which I shall touch, and but just touch (though it be the most important of all) because it is an invidious point, is our loss of blood. It is true, blood is like water spilt on the ground, when once it is shed it cannot be gathered up again: but however it is good to look backwards, and reflect upon these things in our mind, that at least the serious consideration of what is past, may enable us to take better measures for the future, and our representatives to give safe and faithful advice to our king, which is the ultimate scope and end to which their present debates ought to be directed.

Our strength consists mainly in three things, our shipping, our treasure, and the bodies of our young and vigorous youth, which are the immediate defence of the nation both at land and sea. If these are in a decaying condition, we must decay, and at length expire with them: therefore this must be considered under the head of Decay. I shall not say how many lives have been spilt for the reduction of Ireland, and how many of them might easily have been spared, if things had been rightly managed at first; nor how many of our bravest men perished in the action at Steenkirk, for want of being sustained as they might and ought to have been: but surely these things are fit to be examined by the parliament, when they are sitting upon the State of the Nation.—Now to leave this point of decay, and to name but one more at present, in reference to the State of the Nation, I say we are absolutely in a state of unsettledness in all respects, which must needs be very dreadful when we have such a war upon our hands.

1. We are intirely unsettled as to the government. The king's title, and the legality of it, are as publicly disputed, and with as little fear of punishment, as any point of natural philosophy in the schools at Oxford, or any moot case of law by the students in the Temple. Is not this an unsettled condition with a witness? The Jacobites maintain every where that king James has a good title still; and that all that was done by this nation in deposing him, and setting the crown upon k. William's head, was void in itself; and that no subsequent consent or submission of the nation can legitimate an authority set up at first upon so unjust a foundation: and yet we do not see even any of these men made examples. Others who pretend to submit to this government, do yet openly renounce and impugn the principles and grounds upon which it was set up by the nation. They will suffer no mention to be made of the original contract broken by king James, nor of that new contract made by king William with this nation, in virtue whereof he is this day king of England. But instead of this, they write books and publish them, one while to prove that he is king by conquest, another while to prove that he is king by an immediate Providence of God, and direction from him; both which are equally destructive to the nature of our government, and to all the ends proposed to be compassed in the revolution. And when these books come out, we see

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one of them licensed by one secretary of state, and another by another secretary of state, which is as much authority as can be given to the writings of any private men. These things fill the hearts of the people with distrust, fears and jealousies, and do so distract them that they know not where they are. If we are conquered, we have no more laws nor liberties at all, but as the conqueror pleases. If God's immediate hand have placed the king in the throne, all contracts and stipulations vanish, and the people's part in establishing this government comes to nothing: nor can the limitations they think they have put upon it for their own good and safety, be of any force. And then what interest can they have to defend it? When men see the marks of public authority affixed to these vile pernicious libels, they know not what to think, or which way to turn themselves; it quells and dashes them to that degree, that they have no more heart nor alacrity to appear and act for the common cause. Sure this is fit for the inspection of parliament, when they are upon the State of the Nation.—There have been bills and declarations offered several times in parliament for abjuring king James's authority, and declaring king William and queen Mary lawful and rightful king and queen of this realm; but nothing of this kind has ever yet been brought to perfection. How can we think ourselves in any sort of settlement, so long as this remains undone? It has always been the custom, both in England and other countries, when princes, families, and forms of government have been laid aside for their tyranny, male-administration, or even but any politic or prudent reason, to cause the people to renounce and abjure them, at the same time that they took their oaths of fidelity to the new government, established in the room of that which was laid aside; and without this the new government never thought itself secure, nor could think so: for while the people's allegiance is not fixed upon one and the same government, the kingdom must be divided; and we know a kingdom divided within itself cannot stand. Nay even where there was no actual change made, but only in prospect and futurity, yet there the people were obliged to declare themselves absolved from any obligation of obedience to those who were laid aside.—Of this we have several examples in the several changes which were made in the succession, by act of parliament, in Henry the Eighth's reign; and the like has been always done in all other places. When the Tarquins were driven from Rome, were not all the people obliged solemnly to renounce them and their government for ever? And to give no more instances, was not the same thing done in Holland in the last age, when the Dutch rescued themselves from slavery, by throwing off the Spanish government, and setting up a free commonwealth? Will our condition be less miserable than theirs was, in case our abdicated king James should return upon us, and be replaced in his throne by a French army? Are the French more merciful now than the Spaniards were at that time? or rather would they not act a thousand times more cruelties here if they should prevail upon upon us, than the former did in Holland, having a threefold pretext for their violences against us, since they would, at the same time, look upon us as heretics, as rebels, and as a conquered country? Ought we not to use the same prudent means to secure our government, and to discern those who are for it in principle, from those who comply with it only from fear and interest; which have been practised by other wise nations, and so often by our own, upon the like occasion? But instead of this, whenever any thing of that kind has been brought on, it has always been defeated by those whose masterpiece it has been, ever since the late revolution, to keep all things in suspence, as they hope still to do, till they can find an opportunity to bring back their old master, to whom they will value themselves upon their dexterity, in keeping off a thing that would have been so much to his prejudice. And their treacherous insinuations did so far prevail, where one would least have expected it, that those who of all others should have desired such an abjuration, and should never have thought themselves safe one minute till it were enacted, were brought to believe it to be against their interest, and to oppose and counter-work it in parliament as much as they could; insomuch that a gentleman of the house of commons being asked, whether he would be for the abjuration? answered very ingenuously, No, he did not desire to displease two kings at once.—It is astonishing to think, that the officers in the chiefest trusts of the nation are not obliged to own this a lawful government, as it is declared and asserted to be in the Bill of Rights. And it is the more astonishing, no such provision should have yet been made by the parliament, for the security of the government, because several of those who have now the greatest employments and highest trusts in the kingdom, did, both before and after the time of presenting the crown to their majesties, openly declare and maintain it as their opinion, both in parliament, and upon many other occasions, that their majesties were not, nor could not be made lawful king and queen, but were only so *de facto*, and as such they submitted to them, and no otherwise; which I believe is the first and only instance that can ever be produced, either out of antient or modern history, of ministers and officers of state, who openly and publicly maintained, in set speeches, in the assembly of the states or representatives of a country, that the prince whom they actually served had no just or legal title. This is such a sort of unsettledness, as never was any where but in England, nor never there but at this time only.—But to consider the State of the nation farther in this respect; we are not only in an unsettled condition in reference to this king's title, but likewise in reference to the ancient government itself, and

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the time of holding parliaments. The ancient law of England is indeed clear and plain enough in this matter: but it has been so obscured by the illegal practices and judgments in the late reigns, that we cannot be thought to have any manner of settlement, till this great point be clearly settled and determined. Indeed there is mention in the Bill of Rights of frequent parliaments: but this is so general an expression, and so liable to doubtful interpretations, that we can receive no assured benefit from it. Our government cannot in any sort be thought to be settled, till the manner and time of calling parliaments, and their sitting when called, be fully determined, explained and agree on. Without this we are but *arena sine calce*, our government is but the embryo and rudiments of a government, a government only *in potentia*; and there can be no real settlement till we know and appoint, with certainty, the times of calling, holding and sitting of parliaments. The different methods taken by our late kings to destroy our constitution, and enslave us, either on the one side, by depriving us of parliaments entirely, and in the absence of them, governing us by will and pleasure (which was the case in king Charles the First's time) or on the other side (which was equally destructive to the nation, and its liberties) by keeping one and the same parliament so long on foot till they had time to corrupt the majority of them by offices, gifts and pensions (which was what was practised in the time of king Charles 2.) I say, these different methods of our kings to disappoint us of all the good we hoped from parliaments, have made it absolutely necessary to come to a clear settlement in this matter, without which it is a jest to talk of a settlement. And this is certainly the true time to get it done, now that the crown has need of such great sums of money, and that the king asks so frankly the advice of the parliament for taking such measures as may be for the good of the nation; and it is not sufficient to answer, that we have now so good a king, that we need not fear but we shall have parliaments as often, and in such a manner as is most for the good of the kingdom. For the best kings are mortal, and it is in the reigns of good kings that good laws must be made, or not at all. And there is no doubt but if the parliament lay this matter before the king, with the reasons that oblige them to desire it, his majesty will be prevailed upon by them to consent to a thing, which is so indispensably necessary to the maintaining that constitution, and those liberties of the nation which he came over to assert and vindicate.—To shew how unsettled we are as to this great point of parliaments, I cannot but mention the case of those lords, who were under an impeachment of the house of commons in the end of king Charles the Second's reign, and had been committed to the Tower by the lords in order to their trial, where after they had been four or five years without a trial, for want of a parliament to try them, they were bailed out of prison by Jefferies, and the other judges of the king's bench in Michaelmas term, 1683. This was contrary to all law and privilege of parliament, and therefore they were several years before they durst venture upon it; but at last the judges of the king's bench undertook it: and when they came to do it, the reason they gave was, that it being entirely in the king's power when to call a parliament, which he might keep off as long as he pleased by his prerogative royal, notwithstanding the laws for annual parliaments; and it being uncertain whether he would call one or no, since he had not done it for several years before that time, it could not be the intention of the law to keep men without trials in prison all their lives, which, for ought they knew, might be all ended before the king would think fit to call a parliament. And therefore they thought they had power to relieve men in such cases; and accordingly they let out those prisoners under bail, who have ever since continued to be at liberty, both before and since the revolution. These discourses of the judges of the king's bench were taken in notes by the lawyers, and will doubtless appear in any of their reports that shall be printed, as the unanimous opinion of all the judges of that court; and the order of court, which was made for admitting those lords to bail, in pursuance to that principle and maxim of the judges, that it is in the king's power to keep off parliaments as long as he pleases, is a standing testimony upon record, that our constitution, as well as our laws, is entirely in the king's breast, and that he has the prerogative of governing us without parliaments always, or as long as he pleases. While such points as these remain unsettled, and such precedents uncondemned, it is plain our government is altogether without settlement; and that whilst the holding of parliaments is precarious, and absolutely depending upon the pleasure of the crown, there can be no safety for the life, estate or liberty of the English subject.

2. Thus it appears, as one part of the State of the Nation, that we are in a condition of unsettledness in reference to the government: but we are farther in a very sad unsettled estate in many other respects. We are unsettled as to the quiet enjoyment of our own houses. There are precedents lately made, both in public and private houses, of quartering soldiers, contrary to the antient law, the Petition of Right, and the express letter of the act of Car. 2. And this is the less excusable, because there was a bill past the house of commons last sessions, to enable them to quarter their soldiers, and to regulate the manner of it: but there were some things in the preamble of that bill which displeased some people; and therefore it was thought better to quarter them without law, and against law, than to suffer a bill to pass which had some clauses in it that seemed to put too much restraint upon prerogative. If such oppressions and invasions of

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the liberty of the subject are let alone without remedy, it is to little purpose for parliaments to meet to consider the State of the Nation, or to pretend to make any provision for our safety. And the truth is, this cannot be remedied but by a new Bill of Rights, declaring again the right of the English subject in this behalf.

3. The same may be said in reference to our property. We are likewise in a very unsettled condition in that respect. For this, I shall only at present give one instance, which is that of seizing the subjects property for transport-ships, without settling any fund to pay them, as has been made out before the commissioners of accounts, by which many have been oppressed and ruined.

4. But further, we are in an unsettled condition as to our very lives. There is no man ignorant of the barbarous proceedings in trials for treason in the late arbitrary reigns. Men were condemned and executed upon the evidence of single witnesses, upon papers not proved to be their hand-writing, by innuendo's and far-fetched constructions; all the benefit allowed them by the laws was denied them, illegal juries packed upon them; and the laws which had been provided by the wisdom of our ancestors for the defence and security of the subjects life, were by perverse and false constructions, put upon them by corrupt and mercenary lawyers and judges, made use of to murder and destroy the best men we had. The remedying of this great evil was declared to be one of the main ends of the revolution. And yet things are still at this day in the same condition, in that respect, as they were before the king came into England. The lives of the subjects are in as much danger as ever, since there is no manner of security yet provided against the open violations of law in the last reigns. Nay, the very same corrupt opinions are now delivered for law, which king Charles and king James's judges were infamous for. For it is but few days ago that some of the judges declared, in the lords house, that one witness to a principal treason, and another to a circumstance, was sufficient to convict a man that is indicted for treason; which was the worst of all the opinions delivered upon the bench by the late chief justice Jefferies. If these doctrines are suffered to pass for law amongst us, our revolution indeed is to good purpose; and yet there is not hitherto any provision made to the contrary. Can our parliament, when it is upon the State of the Nation, suffer us to continue unsettled in such points as these are?

5. Another particular in which we are at this day as much unsettled as in any of the rest, is, the way and manner of defending the kingdom against our enemies. Whenever we are frighted with the noise of a French descent, our militia is raised, to the vast expence and burden of the kingdom; but it is so unexperienced, undisciplined, and composed of such persons, that it can never be any real defence to the kingdom in time of danger. There is indeed no militia settled, but what is burdensome and useless. Several bills, it is true, have been offered to this and the last parliament for putting the militia upon a useful foot to the kingdom, but they never came to any thing, being always opposed and defeated by those who thought it more for their purpose to have a regular standing force kept up. Our ancestors were a warlike people, and it was the policy of those free and honest times, to keep all the people of England to the exercise of their arms; and for this purpose there were divers laws made, which were duly and constantly executed, by which means all the men in the nation, who were able to bear arms, were perfectly well-disciplined, and enabled to defend their country in their own proper persons, which is the only true defence of a free country. With this sort of men, drawn together as occasion required, our ancestors conquered France several times over: and with this sort of men it is at this day that the Swiss defend their liberty; no power in Europe daring to invade, or attack a free nation armed and disciplined in its own defence, and which fighting for itself, can neither be corrupted like an army of mercenaries, nor enter into designs against its own liberty and happiness. When our old laws are revived (with such alterations as the change of arms, and the present way of fighting requires) and our old discipline restored, our militia will then be significant indeed for our defence, and not till then. There is one clause in the Bill of Rights which seems to look towards this, which is, that every English subject has a right of keeping arms for his defence. But this is not enough, the old laws must be revived, and our militia, which is at present but a burden and grievance to us, must be put into a real condition of being useful, and a true defence to the nation. This is another point in which, I say, we are wholly unsettled, and that is, the way and manner of defence of the kingom; and this is another part of the present dangerous and unsettled State of the Nation.

6. Another thing in which we are in a lamentable unsettled condition, is, the course of our trade, which was touched before under the head of decay. Our merchants are ruined by the loss of their ships and goods, and their best opportunities of trade are lost for want of convoys. Our seas and coasts are not defended, and our natives are forced to have recourse to foreigners to guard and convoy their ships, who carry away the money that should be earned and kept in England by our English seamen. All nations are permitted to trade with France, and supply them with whatever is necessary for the carrying on this war, whilst we alone lose the benefit of such a trade; so that in effect, we make war against France alone, and all the world makes war against us. And certain it is, that while the fountain is so plentifully supplied with water from all parts, we shall never be able to stop the streams: or,

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which is all one, while the fire is so constantly fed with fuel from all hands, we shall never be able to put it out. The greatest and most certain of all our maxims, at this time, is this, that unless we can put a stop to the commerce of France with our neighbours, and to the supply of ships, stores, and other things which they receive from them, we can never hope to bring this war to a happy end. The price of corn is excessive high at present in France, which causes a sort of famine in many provinces in that kingdom: this is a great advantage to us; but if we suffer the Danes, Swedes and Hamburgers quietly to supply them with as much corn as they want, what benefit can we have from this advantage? The Dutch and Spanish bills of exchange do now run through France, which, besides the profit the French have by it, is a certain way of revealing to them all the secrets of the confederacy, since they have the power of opening all letters in the passage. This has been sufficiently represented, and other ways proposed for the conveyance of letters and bills of exchange; but such offers have been neglected, and the same way of sending letters through France, suffered to continue. And since I have mentioned this, I must also take notice of the trade driven with France by the Jews in Germany, who send every year ten or twelve thousand horses to supply their army; and the princes who are our allies, connive at this trade for the sake of a little profit: and then when we go into the field against the French in Flanders in the summer-time, these very horses are employed against us. Thus we suffer our allies, and all the world, to carry on a lucrative trade with France, while we ourselves are forced to bear almost the whole burden of the war, and are thus shamefully made the cullies of the confederacy.

The truth of it is, our present condition is very miserable and dreadful. If we look upon the war, and the management of affairs at home in reference to it, we cannot but see that there is a vein of treachery runs through it, from one end to the other: how else is it possible every thing should misgive and miscarry, as we see it has done? How could all our preparations this year for a descent upon France, have been fore-slowed and retarded as they were, and our men imbarked, only to cost half a million, and make us ridiculous to the whole world, unless the hand of Joab had been in it? Nay, it does not appear there was so much as any tolerable scheme, plan or design laid for this descent, which was so much valued to the parliament last winter, and filled the world so much with expectation all the beginning of this summer: the time was only spun out, and all things ordered so, that no good effect should follow; which could proceed from nothing but treachery in some of those who had the ordering of it. Who can believe that our victory at sea this year should not have been farther pursued, if all people employed had been well intentionated? Why was there never any examining of miscarriages, in not pursuing this victory at sea, and in not hastening the preparations for the descent? In these cases we have Testimonium rei, res ipsa loquitur. There can be but one reason for such affected and studied neglects, as these are. How come we to labour under such want of intelligence, even in things in which it may be so easily be had, and that for so little money? The want of this kept out our great ships lastyear longer than was needful, when the French laid up theirs. It was that, or worse, that lost the opportunity of fighting the French last year, when they came to Ireland with only a squadron. It was want of intelligence that made our fleet so backward to go out this spring. If we had good intelligence, we had not staid, after we were ready, for the Dutch fleet to assist us, when we were really more in number than the French, though reports were industriously spread that they had 90 or 100 sail of line ships, and that D'Estree had joined them, which was confirmed at court, though a Dane affirmed he had left D'Estree in the Straits. We had no notice, for several weeks together, of the French ships got into the road of the Havre de Grace, and their condition there (though easy to be had twice a week by Fishermen) till merchants brought the news to our secretary's office.—When orders are to be given out for any design, there are so many delays, upon one pretence or other, that the time of execution is always over before the orders are received. And besides, they are so defective, and in their nature so impracticable (as we have lately seen in the business of the descent) that it were better none at all should be given. —Are there any designs on foot to join with our enemies, and rise in favour of them, as there was this summer, when the French were coming? Yet nobody is found out or prosecuted that was concerned in it. Every body knew that horses and arms were bought, and some were taken. Every county saw that their discontented men flocked up to London. Nobody thought the French would either provide to come hither, or seek to fight us at sea, but upon some ground of treachery; and yet there could be nobody discovered that had any correspondence with them. These things are indications sufficiently plain to any wise man, where the bottom of all this mischief lies: but none are so blind as those who will not see.

All these things put together, make a considerable part of the melancholy and miserable State of the Nation at this present time. If it be asked, what shall be done to remove all these evils? I say, the first step towards a cure, is well to understand our disease; and if the parliament can be thoroughly sensible of these things, and make the king likewise sensible of them, the very nature of the disease will of itself lead to the proper remedies. Therefore I am humbly of opinion, that the parliament should begin by a most humble, dutiful and respectful address to his majesty, representing to him the true State of the Nation in its pre-

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sent circumstances, returning thanks in the most humble and affectionate manner imaginable for that gracious expression of demanding the advice of the parliament, and assuring him, that neither their advice or assistance shall be wanting for maintaining and defending his person and government against the attempts of all his enemies; as on their side, after what he has said at the opening of this session of parliament, they cannot doubt but his majesty will heartily concur with them in what they shall advise for his honour, safety, and greatness, and the good of the nation. After this the parliament will proceed to offer to his majesty such bills as may be most proper to remedy the grievances of which we complain; and at the same time that they give money for carrying on the war, will advise such measures as may best enable his majesty to bring down the excessive power of France, and at the same time to secure the happiness and liberties of the English nation. If debates are free and clear within doors, so as to encourage those without, to hope that there is really a probability of something to be done for the good of the nation, there will be farther proposals made of such things as are thought most proper and necessary to be done at this time.

No VIII.

An Enquiry; or a Discourse between a Yeoman of Kent, and a Knight of a Shire, upon the Prorogation of the Parliament to the 2nd of May, 1693.

By Major Wildman and Mr. Hampden.*

The Bill for frequent Parliaments.—The Inconvenience of refusing to pass Bills.—Annual Parliaments the former Custom in England.—Not calling of frequent Parliaments often complained of.—The great inconvenience of it.—The Constitution not secured without it.—Calling of frequent Parliaments no lessening of the Prerogative.—Frequent Parliaments lessen the Power of Favourites.—Calling of Parliaments no act of Grace, but of Duty.—Long Intervals of Parliament one great reason of complaints in Ch. I.'s Reign.—Friends to arbitrary Power always Enemies to Parliaments.—Pensions to Parliament-men owned to be paid in Ch. II.'s Reign.

Yeoman. SIR, your humble servant, I am happy to meet you at this friend's house, where I did not expect you. Pray, sir, is the news true, that the king hath prorogued the parliament to day?

Knight. It is very true, we are prorogued to the 2nd of May next.

Yeom. Were all your Bills passed that were agreed on by both houses?

Knt. I wish I could tell you they were.

Yeom. I hope, sir, the king hath not refused any public bills?

Knt. Which are those you call public?

Yeom. Truly, sir, those two wherein the country reckoned themselves most concerned are, That for securing the Foundations of the Civil Government, by such a constant succession of new chosen Parliaments, that their deputies by their long continuance in that trust, may not be in danger to be corrupted, by offices, or private interests: And, That for preserving our Property in our Lands and Mines, against the pretences of a royal prerogative, to take away our mines and ore, though we have spent most of our estates to discover the mines in our lands.

Knt. I am sorry to tell you, that those are the two only Bills to which his majesty would not assent.

Yeom. Are those bills then to be utterly lost, after that both houses have spent so much time and care to compose them? May they not be offered to the king again as soon as the parliament meets?

Knt. You seem not to know the force of a Prorogation of Parliament, which (as our lawyers have of late resolved) makes void all Bills of that session, not enacted, and all other matters depending, as if they had never been: these are no more to be accounted Bills of Parliament; but if any thing contained in either of them be desired to be hereafter enacted, it must begin anew, as if it had never been before in either house of parliament.

Yeom. Sir, if all the care and pains of our deputies in parliament may be thus neglected, or blown away with one breath, what hopes have we then from the consultations of parliament, of the promised and long-expected Settlement of Liberty and Property?

Knt. I know no remedy, until the king shall please to cause a new session of parliament.

Yeom. And is such a session to be absolutely at the king's will, whether it shall be six months hence, or a year, or 7 years?

Knt. You know it was so designed, and in

* State Tracts, published during the Reign of William III. vol. ii. p. 330.

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part practised in the late reigns; and the Judges then were so corrupted, that they declared (notwithstanding the laws for annual parliaments) "That the holding of Parliaments depended intirely on the king's pleasure." But it is most manifest, besides the positive laws for yearly parliaments, that by the antient constitution of our government, they did meet of course at least twice every year. Afterwards in the reigns of the Saxon kings it was made a perpetual law, that a Parliament should be holden every year once at London; and the same law was incorporated into the laws of Edward the Confessor; and from thence all the successive kings of England to this day, have been sworn to the observance of it. I must confess to you nothing prevailed with me more to concur with our king in his pretensions to restore our parliaments, and the laws to their due authority, than my own knowledge, that the late Civil Wars in this kingdom, and the subversion of our religion, laws and liberties, were principally occasioned by the powers usurped in several late reigns, to refuse the calling of successive parliaments, and to continue the same parliament for many years, to form them into a compliance with their designs of despotic power.—When I read the solemn and repeated assurances his majesty gave us, 'That his design in coming into England, was to remove from the administration of the government those evil ministers that had promoted the murders and treasons committed, in attempting to set up an Arbitrary Power over the people and their parliaments;' and also heard him desire the Parliament 'to make such an effectual provision for their fundamental laws and liberties, that they might never hereafter be in danger to be again invaded;' I thought the antient legal course of annually chosen parliaments would have been immediately restored, and the strongest fence made for that constitution, that the wisdom of the kingdom could have invented: but I must tell you, to my sorrow, that we are left as much to the king's will for a session of parliament, as evil ministers in the late reigns designed we should be.

Yeom. If this be our case, it is no wonder that mens minds are so unquiet; we are in daily eminent hazard of confusion, whilst the government remains wholly unsettled in its fundamentals. It seems to be apparent, that after the expence of twenty millions, besides the vast effusion of blood, we are no more secured against the slavery we feared by subverting our constitution, than we were before the convention of the people for a settlement, when king James had just abdicated the kingdom.

Knt. You take it rightly. If no Bill should pass to secure the certain legal succession of parliaments, and we should connive at the usurpations made by the late kings therein, and seemingly approve the Turkish doctrine of the then Judges, 'That the holding and continuance of Parliaments depended absolutely upon the wills of our kings:' then the supreme power, vested by the constitution in parliaments, to maintain the laws and statutes, and preserve justice and good government, must be acknowledged not to be the kingdom's right, but to arise from the gracious will and pleasure of their kings, and the people must not dare to claim liberty and property as their due.—If this point of our constitution should remain thus unsettled, and an ill king succeed his present maj., then the free counsels of the whole kingdom for its defence and welfare, appointed by our laws to be in parliament, may (by the pretence of his prerogative) be utterly rejected and despised; and the flatterers, and designers to make him absolute master of our laws, liberties and lives, may be exempted by him from the danger of punishment, certain justice being to be done upon such offenders, only upon the people's complaints, and impeachment of them in parliament.—If the due succession of parliaments be not established, so as the kings cannot by any artifices avoid their meeting, an ill king may, in effect, authorize whom he pleases to subvert and destroy our religion, laws and liberties, by renewing Pardons of all such crimes as often as they can commit them. I am sorry to say it, but our present case is such, that all the security we have for our religion, our laws, our liberties, our lives, depends wholly upon the uncertain and hazardous life of our present king, to make good his declarations and promises to the kingdom.

Yeom. Sir, you make me afraid that our country must run a desperate hazard, to have their government, and all their highest concerns, remain still unsettled for at least another half year. The king, I hear, is going to Flanders, not to return till towards winter; and who can be secure of his life, or the events of war? and what dreadful consequences may ensue in an unsettled kingdom? Pray, sir, can you tell me the reason why his majesty hath deferred to make this Settlement of Parliament? What shall I say to my neighbours in this point?

Knt. Do you expect, my good neighbour, that I should shew you good reasons for the king's rejecting of the Bill? If I had known any such reasons, or either house of parliament, we ought not, as his great council, to have advised him to pass it. We concluded, upon solemn debates, that he was highly concerned to have this Bill enacted, to justify the design of his coming with force and arms to deliver us from arbitrary power, and to settle our laws and liberties. We thought that the reputation of his concurrence, with the advice of the great council of his kingdom, obliged him to a free consent to that Bill, the expectations of all Europe being so exceeding great from the results of this parliament's counsels, and his union with them. We believed his desire to secure to his subjects their government by laws, would have made him glad of the opportunity of this Bill, lest any accident should be-

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fal him in this war, and he should lose the glory of his design, by leaving them unsettled. We thought it was for his interest to pass this Bill, to induce the people to pay their great Taxes freely, and to advance them to as great sums as the acts of parliament would allow: It being the antient course in parliaments, that the kings always passed some bills for the peoples advantage, when they had great sums of money from them. And we thought his majesty had the less reason to deny his assent to this Bill, in regard it deprived the crown of no legal prerogative, but only revived and confirmed the antient laws of the realm, than which nothing is more frequent, when wholesome and necessary laws grow into disuse. We also conceived that his majesty was bound in honour to make good the matter of his Declarations, and his solemn promises to the people in them, to settle their legal government beyond all dangers of being subverted by ill princes or evil ministers. It seemed to us that his majesty's desire of being as great and potent as any king that ever possessed the English crown, would have pressed him to a conjunction with the parliament in this Bill, since English kings can be great only by the wise and affectionate counsels and assistance of their parliaments, who have the absolute command of the wealth of the whole kingdom.

Yeom. Sir, you have been extremely kind in shewing me your opinion of the importance and necessity of this Bill; but you have not informed me of any one Objection made against the king's passing it. I would gladly know what was alledged against the Settlement of this fundamental of our government.

Knt. It would be useless to tell you the fallacious arguments that were brought, to shew there was no necessity of passing such a Bill in this king's reign; but all that was said was in substance no more than, That the bill took away an undoubted prerogative of the king's, to call, continue, and dissolve parliaments at his pleasure; that the power of the regal office would be lessened thereby; and, that it was not fit to shew jealousy of this king's denying our legal rights, whilst he so continually hazards his person for our sakes.

Yeom. Pray, sir, let me be so bold as to ask you how these Objections against the Bill were answered: I know it is not hard to delude the unlearned countrymen in matters of this nature; yet they are not ignorant that it hath been the common practice of those that have designed our slavery, to cry up the king's prerogative, to suppress the subjects claims of their rights and liberties. Be pleased to favour me with a short account of what was said upon this occasion.

Knt. As to the first pretence, That the Bill destroyed the Prerogative of the crown, to call, prorogue and dissolve parliaments at their will and pleasure only, it was plainly said, 'That there neither is, nor ever was, any such prerogative, and that there needs no other evidence of that truth, than the very nature and essence of our constitution.' It is a repugnancy in itself, and downright contradiction, to say, that by our constitution, the subjects are to be governed only by laws of their own chusing, and that their deputies to that purpose are to be appointed from time to time by the subjects, as the laws shall direct, as they respectively shall attain to age, and as the estates descend, alter and change (all which is known by our common laws, and fully declared in several Statutes, [Vid. 25 H. 8. 1 J. 1.] and acknowledged by all that know our laws); and then to say that our kings have a rightful power and prerogative, either to keep them from meeting, to advise about, and chuse their laws, or to prevent the successive generations to chuse their deputies for that purpose, by continuing such as are once chosen so long as he or they live.

Yeom. Sir, I thank you for opening of this point. I see it manifestly inconsistent, that the subjects should have a right to be governed only by the laws of their own chusing in their successive parliaments, and that it should be at the pleasure of their kings, whether parliaments should ever be holden, or successively chosen.

Knt. I must tell you, that it was further said, that such a pretence of Prerogative appeared more vain by the continual practice of all ages, concurring with our constitution. The duty of the regal office was so notoriously known, that whenever our kings neglected to hold parliaments to maintain the government, or dissolved them before due provisions made for the kingdom, it was so far from being esteemed an exercise of their rightful power o prerogative, that it was always adjudged misgovernment in them: and it appears by our histories, that fatal consequences have thereupon ensued.

Yeom. Sir, our country is bound to pray for all those gentlemen that have thus maintained this first foundation of all our rights and liberties, and made it thus plain, that it does not intrench upon the rights of the king. Yet I must tell you, sir, there are a sort of people make great noise of the right of the kings, by their prerogative, to call and dissolve parliaments, and that all kings have constantly done it. Pray, sir, help us to understand what is the royal prerogative in this case.

Knt. You ought to know that it is the king's undoubted prerogative to issue out all legal writs in the administration of the whole government; and writs for calling parliaments being established by law, all kings, by their prerogative, called the parliaments. Though it was not in their power to change a word or syllable in the form of those writs, yet the times of sending out such writs, and of their returns within the limits of the law, and the place of the parliament's meeting, were at the king's discretion; from whence it might be said to be their prerogative alone to call them. —I must further tell you that it ought to be remembered, that by our English constitution, parliaments are, and always were to be holden

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within the compass of certain times, being the foundations and essence of the government; and that it is not in the power of the royal prerogative to refuse the calling these parliaments successively as the constitution intends. The being or not-being of such parliaments is not trusted to the crown, but the direction only of some circumstances about holding them, is left to the royal prerogative. But there is also a general trust placed in the crown, by our constitution, to call parliaments upon occasions and emergences, when the safety and welfare of the kingdom require it; and for that reason, when a positive statute enacted, that a parliament should be holden once every year at least, these words were therein added, 'And oftner if need be.'—Now the calling and dissolving such occasional parliaments, is trusted wholly by our laws to the royal prerogative, the kings are the only judges of the necessity of holding such parliaments, subject always to the oath of the crown, to preserve the laws and liberties of the kingdom.—The Prerogative of the kings is so absolute about the calling such occasional parliaments, that it were highly injurious both to the king and kingdom to attempt to take it away, or diminish it by any act of parliament: it is as necessary to the common good and safety, to maintain this prerogative of the crown about occasional parliaments intire, as it is to prevent the extending the like prerogative to parliaments in general; and a certain prevention of that mischief was the only aim, and honest intention of the promoters of the late Bill.

Yeom. Sir, you so well distinguish the powers and prerogatives of the crown, that I cannot imagine what could be said to shew that this bill incroached upon any of them. I have found, by experience, that those who clamoured most against it, for taking away the king's prerogative, could say very little when they were pressed to speak particularly. I myself, after my country-manner, asked one of them the other day, whom I heard clamouring, What royal prerogative the Bill took away? Tell me, said I, what act of royal power, possible to do any good to the crown or kingdom, was proposed by the Bill to be restrained? Is it a royal prerogative, to have the very being of parliaments, the use of their authorities, and the constitution itself, absolutely at the king's will, against which alone the Bill provides? That the people should never consult, or provide for the safety of their estates, liberties and lives, unless their kings please? Hereupon the gentleman grew angry, and said I talked like a base Commonwealth's-man. Truly, sir, it appears to me, that some amongst us hate our laws and liberties; but not daring to say so, they cover their malice with pretences of advancing the power of the crown. These men are better at railing than reasoning, and talk only in generals, as if they were the only friends to king William, though they have another person in their hearts and intentions, when they seem so careful for the power of the crown, and cry out, that this Bill lessens the power and dignity of the regal office. Pray, sir, what was said to shew the falshood of that suggestion?

Knt. This suggestion against the Bill appeared to be so far from truth, that those who objected it, could neither give an instance of any power belonging to the regal office which the Bill restrained, nor of any one act proposed by it to be done by the kings, unto which they are not obliged by law, and the duty of their office without any such Bill. It is a wonder that any secret enemies of our laws and liberties should have the confidence to insinuate, that the regal office would be lessened, by a constant successive electing and holding of parliaments in a legal course, not to be interrupted by evil ministers, or ill princes; the contrary being indeed manifest, that the honour, greatness and glory of the crown can never be in any other manner supported, much less advanced and augmented. It cannot but be clear to every man, that by such a certain succession of parliaments, the greatest and wisest of the kingdom should constantly hold their consultations to advance the king's and his kingdom's interest, honour and greatness, and be enabled to discover all unfaithfulness, failures and defects in the administration of the government, which may any way derogate from the security, potency and honour of the king.—In like manner, all the forces of the kingdom, which are some hundreds of thousands, may be applied to the king's service, and every man of them employed as shall most conduce to the kingdom's safety and honour. And to compleat the prince's glory, all the treasure and wealth which these islands have gathered in many ages from both the Indies, and all the peoples lands, goods and interests, would be subject to be charged, as the wisdom of such great councils should think fit for the maintenance and prosecution of any just and glorious design.—But it is notorious, that none of these high powers and authorities can be exercised by the English kings in any other manner, than by such a constant succession of parliaments as the laws intend; and therefore it is evident, that this bill proposed the highest advancement of the regal office, by making provision for the certain holding of such successive parliaments within the times limited by law.—Pray, countryman, let me advise you to read your Chronicles at home of our kings; and you shall find, that all those princes were most great and glorious, who governed by the counsels of legal successive parliaments; and that those who declined it, lost the honour and power of the nation, and rendered themselves and their people unhappy.

Yeom. These things being so clear, pray, sir, let me be so bold as to ask you, what hath made so many favourites of our princes dissuade them from observing the laws for constant successive parliaments? and how came our princes so readily to follow those counsels?

Knt. I could easily tell you, if it were fit to

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speak plain; but in short, the favourites power with their princes is restrained and lessened by a due course of parliaments, their corruptions would be liable to be examined, and their high ambitious designs defeated. And for the princes, they are deceived by their flatterers with a false notion of power: they are made believe that their power is lessened, when they are bound by laws to do themselves and their people good, though they were bound to it before by the laws of God and nature, and the laws of the realm, by which they hold their royal offices, and which, at their several coronations, they solemnly swear to observe.—It is hard to persuade some of them, that it is the glory and perfection of the royal office, to be disabled by laws to hurt their people: but if they be truly God's Vicegerents, they ought to remember in their most towering ambitious thoughts, that it is the highest perfection of God Almighty, that he is uncapable of doing ill.

Yeom. Sir, you have said enough to satisfy me, that this Bill was not only just in itself, but highly necessary for the settlement of the government, and the security and welfare of the kingdom: but it seems such as had a mind to avoid it, urged it to be unseasonable at this time; they pretended their fears, that it might weaken the reputation of the union between the king and his parliament, and occasion rumours, that a parliament is jealous of our king's compliance with them in securing our liberties. When they could not resist the reasons for the Bill, they offered at the old trick in such cases, to delay the passing it till a better season. Do you think, Sir, there was any thing of weight in these pretences, or were they mere shams?

Knt. If I might, without breach of privilege, tell you the discourse in our house of commons upon this occasion, you would conclude that those who objected the unseasonableness of the Bill, did not believe themselves, whatever they said to delay the bill for fear of a disgust between the king and parliament: that being in truth (after so many in both houses had appeared for it) a reason for present passing it, that the whole world might have been out of doubt of their perfect union.—But I may freely tell you some of the private discourses amongst the members; and in those some of us were bold to ask, Whence came the rumours that the Bill would displease the king? and whether any body had authority to insinuate to the members, that the king would have the Bill delayed as unseasonable? But I could hear of none that would own more than their doubts and conjectures; which made me suspect that there were some secret designs to dissuade the king from agreeing to the Bill, on purpose to weaken abroad the reputation of the king and parliament's perfect agreement.

Yeom. What you have observed makes it appear, that the secret enemies of the government are still designing mischief to disturb the agreement between the king and his people: but might not this Bill give occasion to the king to think, that the parliament had some jealousy of him, that he would not govern by a due course of successive parliaments, according to the nature and intent of our constitution?

Knt. Sir, I can readily answer you, that if the time and manner of offering the Bill be duly considered, with other circumstances, there could be no reason for the king to harbour such a thought. Is there any reason for a prince to think his people jealous of him, because they provide good laws for the securing their Rights and Liberties? Every good prince ought to be pleased to see his people careful therein, not only that he might not have it in his power to wrong them, but that it might not be in any other prince's power who may succeed him.—Every prince should be ambitious to have laws of that kind made in his time, to be lasting monuments of his glory, as having given such securities of peace and rest to his people. It ought to be remembered that our king had invited his people to invent and provide laws, so to secure their parliaments, which is their constitution, and all their Rights and Liberties, that they might never be in danger to be again invaded; therefore, he could not think their obedience to his own commands should arise from a jealousy or distrust of him. It must also be considered, that our king hath had large experience of the confidence of his people in him: they have by several Acts, more absolutely trusted their persons, liberties, and estates in his power, than was ever done to any former princes by our ancestors in any age.—It ought to be esteemed the greatest of all trusts, that they have patiently born for above four years, the dangerous unsettlement of their government in a legal course of successive parliaments: and had his majesty unhappily fallen in the wars, or otherwise, we had been left to the will of succeeding princes, to contest that our fundamental liberty, though it is manifest that all the late miseries, confusions and blood that have been in England, were occasioned by the want of that Settlement. Now when the parliament hath thus highly trusted his majesty, can he take it amiss that they are unwilling to run the hazard any longer, of the like trusts devolving upon successors, that cannot be known who they are, or what they will be?—That which was mentioned of his hazarding his life in the war for our sakes, is so far from shewing this Bill to be unseasonable, that it is the strongest argument possible to have it finished forthwith while he enjoys the crown, who hath personally renewed the Original Contract with the people, and is under greater obligations to settle and secure the government, than can be expected to meet in any other prince.

Yeom. Sir, I can never thank you enough for the information you have given me in this matter that so nearly concerns our whole country; yet after all, I know not what to say to my

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neighbours when I come home, if they shall ask me, as I must expect they will, why the king did not pass this Bill? Many of them are as ignorant as I was; and I could have stopped their mouths, by saying, that the Bill took away part of his prerogative: but now I am otherwise convinced, I cannot speak against my conscience, nor cozen my neighbours, tho' I should be very loth to drop a word that might lessen the country's esteem for his majesty. Let me beg your advice what to say to them.

Knt. My good neighbour, I want advice as much as you, how to satisfy those that sent me to parliament, about the king's refusal of the Bill; yet one thing vexes me worse, that, having been zealous for the Revolution, I know not how to restrain, nor yet well to bear the scoffs of some of our enemies at my folly. They call to mind that I (simple man as I was) confidently said, that the government should be reformed, and our laws and liberties fully secured. They now ask me, Whether I find by experience a king of our own making more ready to do the people right, than the old ones that claimed by lineal descent? Some of them laughed, and told me, that I gaped for a New Jerusalem to drop from heaven, wherein there would be nothing but righteousness; and that the government should be administered by none but men of virtue and known fidelity to their country. They have upbraided me with what I said, That God had sent us a prince that would deny his people nothing, but pressed and conjured them to provide most effectual ways and means for securing their religion, laws and liberties.

Yeom. Sir, I suppose the gentlemen that talk to you in this manner, have a mind to disgrace the honest principles that led the people justly to reject king James, and make you believe that they were cozened in thinking that the security of religion, laws and liberties, or the reformation of the government, were ever intended in the Revolution. They would have you believe there was nothing but ambition and avarice in the bottom of the design, and that whatever was pretended, the crown and its powers were the only things in the eyes of king William and his followers. They would persuade you and the people to think, that our religion and liberties might be secured by a Treaty for bringing back king James, and that an end may be put to the war thereby, and the people acquitted from the heavy taxes and burthens they now lie under. They would impose upon you to believe, if possible, that he who so basely cast the people of England at the feet of the Pope, by an English ambassador, and ran the utmost hazards to subvert the Protestant religion established, should desire to secure our religion, without pretending to be converted, and be fit to be trusted to defend our faith; and that he who is known to the whole world to have occasioned so vast an effusion of Christian blood, to enslave us to his Arbitrary Power, and make himself our absolute master, should be fit to receive royal powers and authorities for the defence of the English laws and liberties.

Knt. Neighbour, you are in the right; but this sort of gentlemen dare not, upon these occasions, argue plainly for king James; and I hope that neither the parliament nor the country are in much danger by them.—But there are another sort of men who enjoy the powers and profits of the late Revolution, and highly pretend to maintain it, that upon the occasion of this Bill, do so pervert the meaning and construction of our laws, and assert such dangerous notions, as really tend to introduce arbitrary power and slavery, if they do not unhappily throw the people upon king James.—These men make a specious shew of their love to the advancement of the honour and greatness of the crown, as if they were their majesties principal friends, though in truth they are daily undermining their majesties legal title to the crown, by the pernicious notions of the late reigns, which are contrary to the fundamental maxims of our government. They commend and applaud the king's refusal of the late Bill, and some of them have been so bold as to say (whether in love to king William or king James I will not determine) that what the king did therein, was the chief thing that he hath done like a king. He hath shewed, say they, that the being and sitting of parliaments, are only acts of grace from the crown; that the people have no other but a precarious right to them, to have them only at such times, and in such manner, and for so long as the crown pleases. These gentlemen pretend to great moderation, and privately whisper to such as they hope to lead, that the principles of our government were too strictly and severely laid down in the late Revolution. They say, that the Original Contract between the king and the people, should not have been set forth as an equal contract on equal terms, whereby the kings were as strictly bound on their part, as the people on theirs; as if each party had no right to claim a share in the legislative power in parliament, or any other administration of the sovereign authority, save only by force of the contract. No doubt, say they, his majesty is now advised, that the original of the legislative and executive sovereign power ought to be wrapped in clouds, and not exposed to vulgar eyes. It is an indecency to have it commonly said of so great and almost divine persons as kings, that they receive all that majesty and glory only from their people. It is below, say they, the high regal office, to have it said by all the people, that their majesties must, within appointed times, call parliaments, and let them redress the peoples Grievances as the laws direct. They praise the wisdom of his majesty's counsels to refuse the Bill, and to avoid any further obligations to the people, than were upon his predecessors. It is fit the kingdom should as much depend upon his grace and clemency for their parliaments, as upon any others that have sat in the throne; and if he

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had condescended to this Bill, the insolence of the people, in their demands of their liberties, might have been insupportable.

Yeom. Sir, you have taken infinite pains to instruct me; yet I was such a blockhead, that till this last discourse of yours, I did not apprehend why the king refused the Bill; it was hard for me to believe that there is so great a party as now I suspect, that prosecute the same designs that were in the late reigns to enslave us. I thought that such as enjoyed great preferments, honours and profits by king William's election into the throne, would never have thought to revive the former designs of enslaving us, by setting up pretences of a power in English kings above parliaments, by Divine Right, antecedent to the Contract between king and people. Though I am convinced there are some men who have so far lost all sense of honour and conscience, that they may be still engaged in the former pernicious enslaving designs; yet before this your discourse, I did not think that any number of Englishmen were so corrupted or infatuated as to think, that our whole constitution, our government by laws, and all our estates, liberties and lives, are holden by the mere grace and favour of our kings. I must confess you have mentioned several of those gentlemen's seeming reasons against passing the Bill, that are spun too fine for our country heads. We should have thought that nothing of our Rights could have been too plainly set down, when we were to declare, as was done in the Revolution, what are and have been the rights of us and our ancestors, reserved in the very constitution from all ages. But I perceive that what cannot be denied to be the people's legal right about parliaments, is desired by that sort of men to be concealed. They would not have a new law pass about holding of Parliaments, lest this king should have more obligations upon him to hold parliaments than some of his predecessors: the true meaning whereof can be no more than to say, that the king and people ought not to be put in mind how many laws have been made and renewed in all ages for the same thing; since every body knows, that the new law hath no greater obligatory power than any of the former, which his majesty and all his predecessors have sworn to keep and observe.

Knt. You do well to observe that the secret enemies of our legal government, do always avoid the renewing and reinforcing of our ancient laws; they would have them forgotten, or negligently disused, and brought by degrees to be esteemed obsolete and unnecessary. Their evil practice hath been of old to slip over the calling of parliaments according to law, pretending there was no great need of troubling the people; and then the omission of one was made a precedent of doing the like again and again, not only in the same king's reign, but in those of their successors; and thereby the constant course of successive parliaments came to be so broken and disused, that the people scarce dared to demand them as their right, but rather moved for them as acts of the king's grace, crying up those for the best kings that used them most. But, my good neighbour, you ought to take notice that the true English patriots always thought it necessary to reinforce expressly, and by name, the principal statutes that concerned the foundations of our government: and for that reason usually made, in the beginning of parliaments, confirmations of the most material laws enacted in the former, though not one word was added or diminished.—They have caused Magna Charta itself to be confirmed near forty times, not that they thought the confirmations gave more force to those laws, but that the contracts, powers, obligations and duties of their princes, and the whole form of the legal government might be kept in perpetual remembrance: and to that purpose they also ordained, that the same great Charter should be publicly read in full county several times every year. If we would do like our ancestors, there is abundant cause to insist upon this Bill for successive parliaments, especially upon this Revolution, wherein we have engaged to God and man to re-establish our ancient Constitution, with all our rights and liberties.

Yeom. Sir, I am ashamed to detain you longer, yet your rational discourse on this subject does so disquiet my mind, that I can scarce forbear being further troublesome to you. You have made it apparent, that many of those who pretend to settle and secure the kingdom, are contriving how to keep it unsettled: they are seeking to bring us into that negligent, loose, uncertain, arbitrary course of governing that was in the late reigns, and had almost ruined the kingdom. For that purpose they endeavour to avoid the change of things or persons in the administration, and to leave every thing doubtful about the people's Rights, which those reigns seemed to call in question. They have avoided the raising and vacating all false judgments and opinions against the people's Rights, except the cases of very few persons, wherein the parliament hath taken care by special acts. They imitate the proceedings in the late reigns, as if they would make king William's government as grievous as king James's. I cannot but conclude that it is for this reason they shew their fears of making a clear and plain Settlement of the foundations of our government, in the course of successive parliaments to be holden unavoidably; all the designers to enslave us having always dreaded such a Settlement for several ages.

Knt. I wish our countrymen were generally as well informed as you are concerning the party that are secret enemies to our present government, who are striving either to keep the way open for king James's Return, or at least to set up his way of governing, or something so like it, that the one may not be known from the other.

Yeom. Sir, many of our countrymen know well enough this sort of false-hearted men; but they for their base compliances getting up

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to be our masters under king Charles and king James, grievously oppressed us then, and have now again got such powers and preferments, as if they had brought about the late Revolution, and are so able to plague, vex and crush us as they did formerly, that the country dares not speak their minds of them or their proceedings. But pray, Sir, help me to shew my neighbours how this sort of men, in their designs of Arbitrary Power, always sought to prevent an absolute Settlement of the legal course of successive parliaments.

Knt. It would require greater abilities than I have to shew what you desire, by reflections upon our whole history of the contests with the kings for our liberties; but I will tell you the practice in our times, and those just before us. This sort of men under James I. made him afraid of the sitting of parliaments, as an eclipse of his power; and insinuated to him, that the calling, adjourning, proroguing and dissolving of parliaments, ought to be absolutely at his will. They also raised disputes, Whether parliaments were of right, masters of the methods of their own proceedings? or were bound first to consider and resolve upon what the king propounded for Money, or otherwise? By these means they made the sitting of parliaments uneasy to him, so that he was always glad to be rid of them before the necessary business of the kingdom was done.—But that sort of men appeared more boldly upon the accession of Charles I. to the crown. They attempted then to invade the great Fundamental of all Liberty and Property, the power of the people of England alone to impose Money upon themselves. They had the confidence to maintain a power in the kings to take Tonnage and Poundage, and other monies without act of parliament. They cannot deny that these were their traitorous practices and designs, so long as the great Petition of Right remains upon record.—Neither ought it to be forgotten how parliaments were then browbeaten, and their authority questioned and slighted, and the method of their proceedings controlled, contrary to their fundamental rights and privileges, nor how they were tossed up and down by sudden adjournments, prorogations and dissolutions. The houses, studies, and pockets of divers of their members were searched, their persons against the express laws imprisoned, and the free debates in parliament made subject to the restraining power and censure of inferior courts and judges. The king's special command and pleasure were declared cause sufficient to detain some of them in prison till death, without trial, or being legally accused of any offence. Yet this sort of men thought all these practices could not secure them, till they brought that king to resolve to have no more parliaments, and to forbid the people, by proclamation, to make mention of parliaments.—We ought to call to mind, that for ten or twelve years after, all the counsels of those designers against our legal government, were employed to invent ways to make the constitution of parliaments useless, and the crown wholly independent upon the people in parliament for Supplies and Aids. Such were the inventions of Loan-money, Privy-Seal-money, Knighthood-money, Coat and Conduct-money, arbitrary Fines without Juries for encroachments upon the King's Wastes, Ship-money, Billet-money, oppressing Monopolies, and illegal Patents upon trades, almost without number. Such also was the commission passed the great seal, to impose, by pretence of royal authority, an Excise, though the illegality and oppression of it were so manifest, that a sufficient number of persons could not be suddenly found to put it in execution. All projects were embraced that had but an appearance of supplying the crown, that they might avoid the necessary settlement of successive parliaments. —The last most dangerous and desperate of their designs of that kind was, upon some pretence from Ireland or Scotland, to get an Army, and settle Martial Law, that might raise such Money as a council should think fit, and make Proclamations and Orders of State to be as binding to the subject as acts of parliament. Yet even that was embraced, as appears by the Journals of the Commons in parliament: Mons. Burlemach there openly confessing, that he had received 30,000*l.* which was sent over seas, to hire German horse to be the foundation of a Standing Army here.—I could tell you, neighbour, that during all these transactions, which lasted divers years, their counsels and endeavours were to divert the king from admitting the legal course of parliaments. The petitions and cries of the subjects to restore them, could not be heard; and agreements were made between the king and several persons of greatest abilities and influence, in order to the arriving at absolute power, that there should be no more parliaments during his life. Nevertheless about the year 1639, the king's want of money being extremely pressing, they resolved to make use of a Parliament for Supply, but without a thought of doing the kingdom right, in restoring the due succession of parliaments, and the exercise of their legal authorities: and therefore as soon as they were met, they procured the king to demand of them their giving up their legal fundamental privilege, of considering in the first place, and redressing the peoples grievances; and the king so positively insisted in denying them their Right and Privilege therein, that within 20 days they were dissolved, contrary to the known intention and ends of our constitution.—The failure of the peoples expectation at that time, and the long interruption of the legal course of parliaments, raised great discontents, and loud and general cries of the people for parliaments; the consequences whereof were such, as I dread and abhor to remember: yet it was universally agreed, That the want of the legal course of successive parliaments, and the designs of interrupting and preventing their meeting and sitting, were the great occasions of all the confusion, blood

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and mischief that afterwards happened. And no doubt but the parliament then took the only wise and necessary course to prevent all the impending mischiefs and dangers, both to the king and people, when they laboured, with the help of the best lawyers of England, to declare and secure the observance of the antient laws for annual successive Parliaments; and to provide for their certain meeting, and holding them, notwithstanding all possible designs and contrivances against them: which was done to the great satisfaction of the people, by that notable Act of the 16th of Charles I.

Yeom. Sir, let me be so bold as to ask you, whether that Act for ascertaining Parliaments did not occasion, or some way promote the tumults and wars that ensued?

Knt. You may easily be satisfied from what was written in those times, of the falshood of such suggestions, and that the king, lords and commons passed that Act with great unanimity; and that king often gloried in having passed that Act for the Security of his people: but I believe you confound the Act for Triennial Parliaments, with another act for making the parliament then in being, in a manner perpetual; for they were not to be dissolved or prorogued, but by their own consent, declared by act of parliament. That Act did in truth derogate from the king's prerogative in dissolving parliaments; and whatsoever mischiefs might, or did thereupon ensue, ought to be imputed to the alteration made thereby of our constitution, or monarchy, not to the just and strict observance of our laws and statutes, for which the Act of Triennial Parliaments made provision.

Yeom. Sir, I know there is a common mistake about those acts of parliament, and that occasion is taken by some from the confusions in government that soon after happened, to impose upon the people false notions about the authority of parliaments, and to frighten them from demanding and insisting upon their constant successive elections, as the laws appoint. It is notorious, that those who design arbitrary power are always busy in such matters, and in unworthy reflections upon parliaments. But pray, sir, let us pass by that dark time of the Civil Wars, and see what the same sort of men have done about Parliaments, after the Return of king Charles II.

Knt. They pursued the same designs of subverting our constitution as to Parliaments, but took measures quite different from those before used to effect it. They remembered the ill success of all Projects and Monopolies, and pretences of prerogative to supply the government with Money. They had found and felt by experience, that a free Parliament could not be awed, and that the people in the intervals of parliament would not be forced to pay taxes, that were not legally imposed upon them: yet there was an absolute necessity for the crown to be supplied with Aids from the people, without which it could not subsist, great part of the crown lands being wasted and squandered away in the two preceding reigns. It was therefore resolved to attempt that by fraud, which they could not compass by force; and in order thereunto they took the advantage of the present temper of the people, which carried them, without considering what the consequences might be, to every thing that was agreeable to the court. They recommended such to be chosen members of the house of commons, whose fortunes had been most impaired in the late wars, and whose dependance upon the court might incline them to compliance with whatever should be demanded of them; and these good-natured loyal gentlemen repealed the Act of the 16th of Charles I. for Triennial Parliaments, whilst a few worthy patriots laboured in vain to defend it. It is true, they pretended in the act, by which this statute was repealed, to ascertain the frequent holding of parliaments; yet it left the king at liberty to continue the same parliament as long as he pleased, and that king accordingly continued that same parliament near 18 years: all which time they could not be said truly to represent the people of England, many of those who chose them being dead, and others were either grown up, or had purchased estates, whose opinions both of persons and things might be much changed from what the sense of the nation was when that parliament was first called. But having got a considerable party in the house of commons, they laboured to confirm and increase it. Places and pensions were liberally bestowed on all that could be brought over to them: and it is no wonder they gave such prodigious sums of money out of the poor peoples purses, when a great part was again to be refunded into their own. This scandalous proceeding was manifest, and confirmed by the open confession of a gentleman (through whose hands much public money then passed) in the house of commons the next succeeding parliament, who there acknowledged his paying annually many and great Pensions to members of parliament.—Besides thus corrupting those already in the house, there was neither pains nor money spared to get their friends chosen where any vacancy happened; insomuch that the court spent 14,000*l.* at one election of a burgess for Northampton.

Yeom. Sir, you have fully satisfied me that the ministers in that reign were as bitter enemies to the English constitution, about Parliaments, as those in the two former that went before it; but their measures are more dangerous and likely to succeed, and it was God's great mercy that these hirelings did not enslave us, as it were, by our own consent, and by colour of the authority we had given them for our preservation.—But pray, sir, what was the meaning of the great bustle all over England about Charters? What made the court so mightily labour to persuade all corporations to surrender their old Charters, and take new ones from the king? Was not that done with a design to influence the elections of members to parliament?

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Knt. Yes, most certainly, and this was a more pernicious and dangerous design than any put in practice in the former reigns. This struck at the very root of all the Liberties of England, that the people should never again have a free Parliament chosen according to the constitution; but such men imposed upon them, as would servilely comply with the court in all their measures to enslave us. They corrupted some in every corporation to persuade the rest to surrender their Charters: and where they could not prevail by intreaties, these wicked instruments in several towns, broke open the trunks wherein their Charters were kept, and stole them away to deliver them up. Where this could not be done, they brought Quo Warrantos against the Charters of almost every town in England, that has a right to send members to parliament; and by means of corrupt judges, declared them void, upon some pretence or other, that the present magistrates had acted beyond, or contrary to the powers granted in them, and thereby forfeited all their rights and privileges. New magistrates were placed thereupon in those towns, such as they could most confide in; and such clauses were inserted into their new Charters, as put the choice of their representatives in parliament absolutely for the future into the power of the court.

Yeom. Sir, I am infinitely obliged to you for your pains and kindness, in shewing these things to me; but I stand amazed to think, that there could be so many English-men found in every reign, to join in carrying on this continued design to subvert our constitution, and enslave us. What present advantage could delude and tempt them? they themselves, and their own posterity must be involved in the same misery and ruin they endeavoured to bring upon others.—Sir, I have trespassed too long upon your patience, and shall not therefore trouble you further about their designs under the late king James (those being most excellently laid down and made manifest in his majesty's Declarations, when prince of Orange, published upon his coming into England) but upon the whole it is most plain, 'That neither we nor our posterity can be safe in our Religion, Laws and Liberties, till we obtain an absolute Settlement of the legal course of successive Parliaments.

Knt. I will only tell you one thing more, neighbour, before we part, That those kings, who endeavoured to subvert the constitution as to Parliaments, were always embroiled with their people about Rights and Privileges; and that when once the people had discovered these designs in them, though they called many parliaments, yet the same jealousies continued, and they never after came to a good understanding, or had a mutual confidence in one another.—Our Histories declare the truth of this observation in many former princes reigns, so that I hope the king will avoid a rock that hath been fatal to all who have struck upon it; and I am confident that his majesty will do all that a good king and honest man can do, to restore to us our Constitution, having in his Declaration called God and man to witness, 'That was the Design of his coming hither.'

N° IX.

A Short State of our Condition, with Relation to the present Parliament; commonly called the "Hush-money Paper."

By C. Lawton, Esq. Printed about November 1693.

No greater Happiness to England, than the King and Parliaments' conjunction in National Designs.—Danger of bribing a Parliament.—Enemies to the Revolution in Employment.—Corruption prevails every where.—Members of Parliament formerly paid by the Country.—Managers of Parliaments odious.

It is too sad a subject to admit of raillery, otherwise a man might say that we may defy all the plots of the Jacobites, and the machinations of Republicans, since there is so good an understanding between the king and his people, since the people have chosen him a parliament, of which he thinks so many of the members are fit to be employed by him, as well as entrusted by them. A man might droll on, but he can have no English heart, nor thinking head, who can sport himself with our calamities. There cannot sure be any circumstance which can make England more impregnable, more glorious and happy, than when the king and parliament jointly agree in national designs. But neither can there be any juncture more fatal, than when a house of commons seem as much in a separate interest from that of their country, as parasites in these latter reigns have persuaded our kings to be. Such a house of commons will make slavery authentic, will bubble us out of all sense of liberty. What with talking of the church and the monarchy at one time, and the French

* State Tracts published during the Reign of William 3. vol. 2. p. 369.

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and popery at another, they will first cheat themselves, and then delude as well as betray the nation. They will most easily betray the nation, because we are not apt now to find fault with any thing that has a parliamentary sanction. That 200,000*l.* a year bestowed upon the parliament, has already drawn out of the subjects pockets more millions than all our kings since the Conquest have ever had from this nation, and that without any rude complaint, is a proof, that if a king can manage well Mr. Guy's office, he may without much ado set up for absolute. *Venalis est Anglia*, for *Venale est Parliamentum*. Heretofore indeed it was not necessary only that a parliament should give, but that they should give reasonably; as Flammock's rebellion, and others in king Henry the 7th's reigns witness: and yet I believe our rolls will not furnish us with many sessions wherein money was given, and no one country bill granted. But our ancestors were wise enough to instruct their members, and our constitution so regular, that we had frequent elections. But when, think you, shall we have a new election now, since the king has about sixscore members that I can reckon who are in places, and who are thereby so intirely at his devotion, that although they have mortal feuds when out of the house, though they are violently of opposite parties in their notions of government, yet they vote as lumpingly as the lawn sleeves, never divide when the interest of the family, as they call it, is concerned, that is to say, when any court-project is on foot? The house is so officered, that by those that have places and pensions, together with their sons, brothers and kinsmen, and those who are fed with the hopes of preferment, and the too great influence these have upon some honest mistaken country-gentlemen (who are possibly overfrighted with the French) the king can baffle any bill, quash all grievances, stifle accounts, and ratify the articles of Limerick: I call them mistaken country-gentlemen, who can be persuaded that an honest bill can be at any time out of season. I confess they must adore kings more than I do, who when their own management has brought them into difficulties and straits, don't love to make good use of their humiliation. I would trust an elected king a great way, if I saw he understood election to be his title; if our generosity would engage him to reformation: but when I see he knows neither his own nor our interest, employs many of those who have been our enemies all along, and were his when the debate of the crown was on foot; when I see him hate and nickname as Commonwealths-men, those whose principles made them the authors of his greatness, and those that would have him do the business for which he came, for which both he and we said he came; when I see him sometimes soliciting in person in the house of lords, at others by my lord Portland, besides what he does by all his under-officers, when I hear he sends commands to some lords, and bribes to others, and turns out of his place the gallant lord Bellamount, merely for giving his vote in the house of commons according to his conscience, and thereby intends to terrify others; when I find the money the nation gives to defend our liberties from foreigners abroad, is like to undermine them at home: in a word, when I see neither the one nor the other house can withstand the power of gold; I say, when I perceive all this, it is time to give warning, it is time to look about us.—I once thought to have affixed to this paper a list of those that are in office; which if I had, it would not only have shewn how many members are bought off, but would have pointed out many amongst the number of favourites and pensioners, who we expected should rather have been punished. Had we intended to have justified what we have done to aftertimes; had any thing but personal grandeur been the real intention of him, who we intended to have been, and valued himself most upon being our deliverer; these men must have been marked down as betrayers of their country, who are now made the chief supporters of his throne. I thought we called over the prince of Orange to get or give us all the laws we wanted; to have made the elections of parliament secure and frequent, trials impartial, the militia our standing force, and the navy our strength. I thought we had called him over to call ministers to an account, and to have put it out of their power impunibly to abuse us hereafter. If any spirit of liberty remains, if we are not destined to destruction, sure the nation will take some way to let the king and both houses know that they expect they should not only provide for a campaign in Flanders, but (if we should yet have our wished-for success) for our security even against our own victories, and such laws as may make it worth while at this time to defend our country: I say worth while to defend it; for if we are to be slaves, it is no matter to whom we are so. I would not embarrass the government, but I would have those that are in it understand that it is for our good, and not to gratify their ambition, that they are put into those posts.—It was the custom formerly for the people to pay their members, and those members were trusted by the people to keep the balance between their liberties and the king's prerogative. But since they are retained by him with such overgrown-fees (such places and preferments) to be council on his side, how can the people hope they will be just in their arbitration? But after all I would not be thought to insinuate, that all that are in places give up the interest of England: there are some, and those in great places too, of whom I cannot allow myself to have one hard thought; though there are others of whom the world had a very good opinion, who since they have had preferment, have taken care to convince us, that we were mistaken in their characters. Lest the good should not be distinguished from the bad I forbear making a list, which most members, if

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they please, can make for themselves and their neighbours, and more exactly than I can do it; and I think the best ought to suspect and examine their own consciences, whether their employments do not bias their votes. If men are to make fortunes by being of our senate-house, we had better ourselves pay the disbursements of those we send, we had better ourselves allow them plentiful salaries for sitting there; each particular county would save by it in the public assessments, and find their account in it, whilst they preserve their members from the temptation of being hired out of their interest, and consequently get good laws for what they give. We can scarce pay too much for good laws: and if we have not some that we have not yet, we shall not when the war is over (let it end which way it will) be able to call what we have our own. If the members of parliament are to overlook all the ill-husbandry of the government, that they may share in the profuseness and bribery of it; if our rights are set to sale by some, and neglected by others, when the very being of the government depends upon our being pleased; what amendment, what confirmation shall we have of our constitution when all our dangers are over? This is a thought deserves our most serious reflections. In the late times the city of London often petitioned for passing of laws; will they always lend money now, and never expect a thorough alteration of the ministry, and securities for the future against court-projectors? In king James the 1st's time there were certain sparks that undertook for parliaments, that were called undertakers; and there is a certain secret that has stole out of our Cabinet, that one there, immediately on the king's refusing the Triennial Bill last sessions, undertook that it should be thrown out the next time they sat, with as much scorn and contempt as was the Judges Bill. It is time to have annual parliaments instead of triennial, since privy counsellors and lords of the treasury (both which stations this person enjoys) can so perfectly feel the pulse of a parliament, during an interval. I could name a certain gentleman who exactly resembles Harry Guy, that the last sessions when the house was a little out of humour, disposed of no less than 16,000*l.* in three days time for secret service. Who are in places we may find out, but God knows who have pensions; yet every man that made the least observation can remember that some who opened loudly at the beginning of the last sessions, who came up as eager as is possible for reformation, had their mouths soon stopped with Hush-money. It has been of some time whispered, that if this will not at first pre-engage to do what will be exacted at their hands, we shall have a new parliament. I cannot tell whether a new parliament will not be practised upon by the Carmarthen Art; however it is our last and best remedy: for if this continues, God have mercy upon poor England; for hitherto we have been, and we are like still, for ought I see, to be re-paid for all our expence of blood and treasure, with a mere smoke that Boccaline mentions in his advices from Parnassus, whereby the enemies of the government have great advantage given them to ridicule us for our foolish credulity.

No X.

An Account of the Acres and Houses, with the Proportional Tax, &c. of each County in England and Wales. Humbly presented to the Lords and Commons, 1693.

My Lords and Gentlemen,

Of the proportional tax in decimals, an arithmetician, in two or three hours, may proportion each county's share of any number of thousand pounds, whatsoever shall be laid; and if it should be laid wholly on acres or houses, it would prove nearly as in the table: in which I remark, that London, or the lord mayor's jurisdiction only, without the suburbs in Middlesex and Southwark, bears near the sixteenth part of the tax; that Middlesex, abstracted from London (the lord mayor's jurisdiction) bears near the two and twentieth and half part of the tax; and both together, abstracted from Southwark, bear the ninth and half part of the tax; that Cumberland bears but one penny the acre towards the tax; but Middlesex, including London, bears five shillings and eleven pence the acre; that Yorkshire has about the tenth and half part of the acres of the whole kingdom, the eleventh part of the houses (much about the same number with the bills of mortality) and bears about a twentieth part of the tax. It seems to me, that the places over-charged have about 150 parliament men; those under-charged, about 130 men; those that have no reason to complain, about 220 men. Whether this table may shew reason for alteration of the method of taxing, I submit to proper judges. The matter of fact I here endeavour to demonstrate, and am,

My Lords and Gentlemen, your most obedient Servant,

JOHN HOUGHTON, F.R.S.

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ACCOUNT, &c.

COUNTIES.	Monthly Tax, 1691.	Acres.	Houses.	Parts of the whole. Tax.	Acres.	Houses.	Acres per House.	Years Tax per. Acre.	House.
Bedford	£.1,793 15 6	260,000	12,170	a 77th	a 154th	a 96th	21	1*s.* 8*d*	35*s.* 6*d*
Bucks	2,630 12 10	441,000	18,390	52	91	63	24	1 5½	34 6
Berks	2,264 13 2	527,000	16,906	61	76	69	31	1 0½	32 3
Cambridge	2,040 0 0	570,000	17,347	50	70	67	33	1 2	38 0
Ely	699 15 10								
Chester	1,495 14 4	720,000	24,054	86	55	48½	30	0 6½	16 0
Chester City	106 16 8								
Cornwall	3,081 16 6	960,000	25,374	45	42	46	38	0 9¼	29 2
Cumberland	336 12 2	1,040,000	14,825	410	38½	78½	70	0 1	5 6
Derby	1,724 16 8	680,000	21,155	80	59	55	32	0 7¼	19 6
Devon	6,459 18 4	1,920,000	56,310	21	21	21	34	0 10	28 8
Exeter	232 14 8								
Dorset	2,689 0 10	772,000	21,944	52	51	52	35	0 10	29 8
Pool	21 19 4								
Durham	647 13 6	610,000	15,984	213	66	73	38	0 3	9 9
York	6,938 10 4	3,770,000	106,151	20	10½	11	35	0 5½	15 8
Essex	6,196 17 8	1,240,000	34,819	22	32	33½	36	1 2½	43 0
Gloucester	3,617 0 6	800,000	26,764	37½	50	43½	30	1 1¼	33 0
Gloucester City	78 16 0								
Hereford	2,263 6 8	660,000	15,006	61	61	77½	44	0 10	36 3
Hertford	2,691 12 6	451,000	16,569	51	89	70	27½	1 5¼	39 0
Huntingdon	1,267 8 4	240,000	8,217	109	166	142	29	1 3¼	37 0
Kent	6,653 17 4	1,248,000	39,242	21	32	29	32	1 3¼	41 0
Lancaster	2,013 7 0	1,150,000	40,202	28	35	29	28½	0 5	12 0
Leicester	2,169 8 6	560,000	18,702	64	71½	62	30½	0 11	28 0
Lincoln	5,150 4 0	1,740,000	40,590	27	23	28½	43	0 8½	30 6
London	8,583 2 8	247,000	30,997	16		37½			66 8
Middlesex, Westm.	6,081 3 0		69,139	22½9½	162	16½	3½	5 11	21 0
Monmouth	780 0 0	340,000	6,490	177	118	180	52	0 6½	28 10
Northampton	2,827 16 4	550,000	24,808	49	73	47	22	1 3	27 6
Nottingham	1,746 16 0	560,000	17,554	79	71½	66½	32	0 9	24 8
Norfolk	6,741 4 0	1,148,000	47,180	19½	35	24½	24	1 6	36 2
Norwich	360 0 0								
Northumberland	745 11 4	1,370,000	22,741	184	29	51	60	0 1½	7 10
Oxon	2,271 1 4	534,000	19,007	61	75	61½	28	0 12¼	28 8
Rutland	480 17 10	110,000	3,263	287	364	357	34	1 0¾	35 4
Salop	2,407 8 4	890,000	23,284	57	45	50	38½	0 7¾	24 10
Stafford	1,705 3 4	810,000	23,747	81½	49	49	34	0 6½	17 6
Litchfield	26 0 0								
Somerset	5,543 1 4	1,075,000	44,686	25	37	26	24	1 4	32 0
Bristol	398 16 8		5,122	345		227			18 8
Southampton	4,378 17 4	1,312,500	26,851	31½	30½	43½	49	0 9½	39 2
Suffolk	6,597 1 4	995,000	34,422	21	40	34	29	1 7	46 0
Surry	3,194 0 4	592,000	34,218	43	68	34	17½	1 3½	22 6
Sussex	3,642 15 6	1,140,000	21,537	38	35	54	53	0 9¼	40 8
Warwick	2,384 17 6	670,000	21,973	58	60	53	30	1 10¼	26 0
Worcester	2,107 18 0	540,000	20,634	62	74	56½	26	0 11¾	25 10
Worcester City	110 19 0								
Wilts	3,933 15 2	876,000	27,093	35	46	43	32	1 1	35 0
Westmoreland	232 0 0	510,000	6,501	595	78½	179	79	0 1½	8 6
Anglesey	251 7 4	200,000	1,840	550	200	630	109	0 3½	32 4
Brecknock	565 0 11	620,000	5,934	244	65	197	104	0 2¾	22 10
Cardigan	211 11 7	520,000	3,166	650	77	370	164	0 1¼	16 0
Caermarthen	544 13 4	700,000	5,352	254	57	218	131	0 2¼	24 5
Carnarvon	293 4 4	370,000	2,765	470	108	423	134	0 2¼	25 5
Denbigh	447 1 2	410,000	6,398	308	98	183	64	0 3⅛	16 9
Flint	237 14 8	160,000	3,150	580	250	371	51	0 4¼	18 1
Glamorgan	757 15 8	540,000	9,644	182	74	121	56	0 4	18 10
Merioneth	201 12 2	500,000	2,590	685	80	451	193	0 1¼	18 8
Montgomery	552 4 4	560,000	5,660	249	71½	207	99	0 3	23 5
Pembroke	653 0 0	420,000	4,329	201	95	270	97	0 4¾	36 2
Haverford West	30 6 10								
Radnor	348 13 4	310,000	3,158	395	129	370	98	0 3¼	26 6
Total	137,641 18 2	39,938,500	1,175,951						

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N° XI.

The Danger of Mercenary Parliaments.*

Chusing of Persons in Offices to be Parliament Men considered —Nature of a true Parliament.—Of an ill-chosen one.—Corrupting of Parliaments but of late date.—Instance in King Ch. 2.—French Measures followed.—Instance in King James 2.—Nation's Expectation not answered by the Revolution.—Miscarriages in the Admiralty.—Deserters of their Principles censured.—The unjustifiableness of such Actions.—No Security against Corruption of Members. — The dangerous Grievances.—The Advantages of Disinterestedness.

1. SEVERAL treatises have been formerly written, and more (I doubt not) will be in this juncture published, with directions and informations to the people of England for chusing fit and proper representatives for the ensuing parliament, wherein sufficient notice will be taken of the failures and defects of several who have already been entrusted in that service, and the due Qualifications of such who are now to be elected. I shall therefore confine my present thoughts only to one particular head, which yet, in my opinion, seems to involve in it the inevitable fate of England, which wholly depends upon the choice of members in the next session of parliament: I mean *the choosing or refusing of such persons who are now possest of any places and preferments, depending upon the gift and pleasure of the court.* If herein my endeavours prove unsuccessful, I shall have nothing left but the satisfaction of my own conscience to support me under the deplorable consequents and effects which must necessarily attend the choice of a house of commons, filled with officers and court-pensioners. This is the last struggle and effort the people of England have left them for their properties; and should we now miscarry in this, we may sit down and idly shew our affections for our country, and fruitlessly bewail the loss of our liberties, but shall never meet with another opportunity of exerting ourselves in its service. That I may therefore set the minds of people right in this particular ere it be too late, I think it will be only necessary to shew the danger of chusing members that are in places from two considerations: first, from the nature of such a parliament considered in itself: and, secondly, from what has already been done by parliaments so qualified. In both which I shall be very brief, and content myself with much fewer arguments than might be urged upon this subject: for I should almost despair of being survived by the liberties of England, if I could imagine there was a necessity of saying much in a case not only of such irresistible evidence and demonstration, but also of the utmost concern and importance to us.

2. First then, We shall best be able to understand the nature of such an ill-chosen parliament, by comparing it with a true one, and with the original design of parliaments in their institution. I hope it need not be told that they were at first intended for a support to the king's just prerogative, and a protection to the subjects in their as just rights and privileges; for maintaining all due honour to the executive power, and all suitable respect and encouragement to those who are intrusted with the administration of the laws; for a poise and balance between the two extreme contending powers of absolute monarchy and anarchy; for a check and curb to insolent and licentious ministers, and a terror to ambitious and overgrown statesmen; for giving their advice to his majesty in all matters of importance; for making necessary laws to preserve or improve our constitution, and abrogating such as were found burdensome and obsolete; for giving the king money for defraying the charges and expences of the government, or maintaining a necessary war against foreign and domestic enemies; for examining and inspecting the public accounts, to know if their money be applied to its true use and purposes: In short, for the best security imaginable to his majesty's honour and royal dignities, and the subjects liberties, estates and lives.

3. This being the nature and true design of a parliament, let us now see whether a house of commons, full of officers and court-pensioners, will answer those noble and laudable ends of their constitution. And here indeed I begin already to be ashamed of my undertaking; the proof of the negative is so ridiculous, that it looks too much like a jest to ask any one in his wits, whether a parliament filled with delinquents will ever call themselves to an account, or what account would be given if they should? Whether an assembly of public robbers will sentence one another to be punished, or to make restitution? Whether it is possible our grievances can be redrest, that are committed by persons from whom there is no higher power to appeal? Whether there is any hope of justice where the malefactors are the judges? Whether his majesty can be rightly informed in affairs relating to himself or the public, when they are represented to him only by such persons who design to abuse him? Whether the public accounts will be faithfully inspected by those who embezzle our money to their own use? Whether the king's prerogative can be

* Printed anno 1690 in quarto. See Harleian Miscellany, vol. i. p. 582, and State Tracts in the Reign of William 3. vol 2. p. 638.

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lawfully maintained by such who only pervert it to their own sinister ends and purposes? Whether a parliament can be a true balance, where all the weight lies only in one scale? Or, lastly, Whether a house of commons can vote freely, who are either prepossest with the hopes and promises of enjoying places, or the slavish fears of losing them! Methinks it is offering too much violence to human nature to ask such questions as these; I shall therefore leave this invidious point.

4. Yet lest still any should remain unsatisfied, or lulled into a fond opinion, that these mischiefs will not ensue upon the elections they shall make, I shall further endeavour to convince those who are most moved by the force of examples, by coming to my second particular, and shewing how parliaments so qualified have all along behaved themselves. And here I must confess there are not many instances to be given, the project of corrupting parliaments being but of a late date, a practice first set on foot within the compass of our own memories, as the last and most dangerous stratagem that ever was invented by an encroaching king, to possess himself of the rights of a freeborn people; I mean king Charles 2. who, well remembring with how little success both he and his father had made use of open arms and downright violence to storm and batter down the bulwarks of our excellent constitution, had recourse at last to those mean arts, and underhand practices, of bribing and corrupting with money those who were intrusted with the conservation of our laws, and the guardianship of our liberties. And herein he so well succeeded, that the mischiefs and calamities occasioned by that mercenary parliament, did not terminate with his life and reign; but the effects of them are handed and continued down, and very sensibly felt by the nation to this very hour. For it is to that house of commons the formidable greatness of France was owing, and to their account therefore ought we to set down the prodigious expences of the late war: it was by those infamous members that money was given to make a feigned and collusive war with France, which at the same time was employed either in subduing the subjects at home, or oppressing our protestant neighbours abroad: it was this venal parliament in effect that furnished the king of France with timber and skilful workmen for building ships, as well as expert mariners, and a prodigious quantity of brass and iron cannon, mortar-pieces, and bullets from the Tower; by the help of which our own treacherous king was able to boast publicly, and thank God, that he had at last made his brother of France a seaman: by this means the honour of England was prostituted, and our natural and naval strength betrayed, with which like Sampson, we should easily have broken all the cords that Europe, or the whole world could have made to bind and enslave us, had not this parl. made a sacrifice of all to the charms of a French Dalilah. To this profligate and villainous reign we are to ascribe the loss of all the considerable charters of England, the deaths of our best patriots, the encouragement and almost establishment of popery, the decay of trade, the growth of arbitrary power, the ill effects of dishonourable leagues, the shutting up of the exchequer, the progress of all sorts of debauchery, the servile compliances at court of a rampant hierarchy in the kingdom, the insolent deportment of the inferior clergy both in the universities and elsewhere, their slavish doctrine of passive-obedience and non-resistance; in short, a general depravation of manners, and almost utter extirpation of virtue and moral honesty. These and all the other mischiefs of that reign are justly chargeable to the account of that pensioned parliament, who either were the immediate authors, or the undoubted causers of them: who, though they sat long and often, and could not be ignorant of our deplorable condition, yet having their eyes blinded with the dust of gold, and their tongues locked up with silver keys, they durst not cry out for the rescue of their country, thus inhumanly ravished in their very presence. It will not consist with my designed brevity, nor is it here necessary to give the reasons that induced the court to dissolve that parliament; nor shall I take any further notice of their great and fortunate oversight in doing it, nor of their unfeigned repentance afterwards for it: I shall only observe, that if the nation had been so senselessly stupid to have chosen the same members a second time, who were pensioners in the foregoing parliament, we had long ago suffered the dismal consequences of our folly and madness in such a choice; nor should we now have had this liberty to warn one another against splitting upon the like rocks, and falling down the same precipices. But they were wiser in those times, and the consideration of the dreadful shipwreck they had so lately escaped, made them chuse pilots of a quite contrary disposition, who, as far as in them lay, and as long as they were permitted to sit at the helm, repaired the shattered vessel of the commonwealth, restored its honour, revived its drooping genius, gave force to its laws, countenance to its religion, and, in a great measure, reduced our banished liberties, and exposed the persons who sold them to the universal hatred and reproach of their fellow-subjects; a punishment indeed infinitely less than they deserved for the highest crime a member of parliament is capable of committing.

5. As for king James's reign, though it was notoriously guilty of the breach and violation of most of our fundamental laws, which sufficiently justifies our carriage towards him, yet cannot we say that his mismanagement is to be ascribed to the corruption of any parliament sitting in his time. It is true indeed, he reaped too much advantage from the conduct of the bribed parliament in his brother's reign, and used all possible endeavours to procure such another for himself, well knowing it to be the

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most effectual means for carrying on his ruinous and destructive projects; yet either from the unshaken constancy of the people, or want of dexterity in his ministers, he was altogether defeated in his expectation.

6. This miserable disappointment of king James's hopes made way for our late glorious revolution, which was brought about by the hearty endeavours, and accompanied with the most unfeigned vows and wishes of all true lovers of their country, who from hence expected a full deliverance from their present miseries, and a sure remedy for their future fears: for what happiness might not the people well hope for under the government of the best of kings, supported by the best of titles, viz. The general consent and election of his people? We were filled with golden dreams not only of a bare security for our estates and lives, but an inexhausted affluence of all manner of blessings a nation is capable of enjoying. But though we have dreamt the dreams, yet have we not seen the visions. And though the nation is by this time sadly sensible how wretchedly they have fallen short of their expected happiness, yet are they not at all acquainted with the true spring and fountain from whence all their misfortunes flow, which is indeed no other than that bare-faced and openly avowed corruption, which, like a universal leprosy, has so notoriously infected and overspread both our court and parliament. It is from hence are plainly derived all the calamities and distractions under which the whole nation at present groans: it is this that has changed the very natures of Englishmen, and of valiant made them cowards, of eloquent dumb, and of honest men villains: it is this can make a whole house of commons eat their own words, and countervote what they had just before resolved on: it is this could summon the mercenary members from all quarters of the town in an instant to vote their fellow criminals innocent: it is this that can make the parliament throw away the peoples money with the utmost profusion, without enquiring into the management of it: it is this that put a stop to the examination of that scandalous escape of the Thoulon fleet into Brest: it is this that has encouraged the mismanagements of the admiralty, in relation to the loss of so vast a number of men of war and merchant-ships, as well as other miscarriages, which were by all men judged to proceed not from their want of understanding in sea-affairs: it is this that has hindered the passing a bill so often brought into the house for incapacitating members to bear offices: it is this that could not only indemnify, but honour a leading member for his audacious procuring and accepting a grant of lands, which by the parliament had been set apart for the public service; a vote that shall stand recorded in their own Journals to the never-dying infamy of that mercenary assembly: it is this could make the same person most confidently affirm, that he was sure the majority of the house would agree to what he was going to propose: it is this that could make men of peaceable dispositions and considerable estates vote for a standing army: it is this, that could bring admirals to confess that our fleet under their command was no security to us: it is this could make wise men act against their own apparent interest. In short; it is this that has infatuated our prudence, staggered our constancy, sullied our reputation, and introduced a total defection from all true English principles. Bribery is indeed so sure and unavoidable a way to destroy any nation, that we may all sit down and wonder that so much as the very name of a free government is yet continued to us. And if by our wary choice of members we should happen to recover our ancient constitution, we shall with horror and amazement look back, and reflect on the dreadful precipice we so narrowly escaped.

7. Fatal experience has now more than enough convinced us, that courts have been the same in all ages, and that few persons have been found of such approved constancy and resolution as to withstand the powerful allurements and temptations which from thence have been continually dispensed for the corrupting of mens minds, and debauching their honest principles. Such instances of the frailty of human nature may be given within these few years past, as might make a man ever ashamed of his own species, and which (were they not so open and notorious) ought out of pity to mankind to be buried in perpetual silence. Who can enough lament the wretched degeneracy of the age we live in? To see persons who were formerly noted for the most vigorous asserters of their country's liberty, who from their infancy had imbibed no other notions than what conduced to the public safety, whose principles were further improved and confirmed by the advantages of a suitable conversation, and who were so far possest with this spirit of liberty, that it sometimes transported them beyond the bounds of moderation, even to unwarrantable excesses: to see these men, I say, so infamously fall in with the arbitrary measures of the court, and appear the most active instruments for enslaving their country, and that without any formal steps or degrees, but all in an instant, is so violent and surprising a transition from one extreme to another without passing the mean, as would have confounded the imaginations of Euclid or Pyrrho. All the stated maxims, in relation to the nature of mankind, which have been long ago settled and established by philosophers and observing men, are now baffled and exploded; and we have nothing left us to contemplate, but the wild extravagances of romantic fables, the sudden conveyances of nimble-fingered jugglers, the inimitable dispatches of transubstantiating priests, or the now more credible metamorphorses of men into beasts.

8. The necessity we have lain under of frequent meetings of parliament during the war,

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has taught our managers so much dexterity and address in their applications to the members of that assembly, that they are now become consummate masters in that most detestable art of corrupting our representatives, by hopes and fears of attaining or losing offices and preferments. And though I here name offices, yet those offices are downright bribes and pensions, since they are held precariously from the court, and constantly taken away upon non-compliance with the Court-measures; though I am not ignorant that several considerable pensions were also paid out of the exchequer to members of both houses: for places could not be had for all, though they have tried all imaginable arts for dividing among themselves the considerable posts in the kingdom: for either by splitting of offices among several persons, which were formerly executed by one, or by reviving such as were sunk, or by creating others which were altogether useless and unnecessary, or by promises of preferment to those who could not presently be provided for, they had made above two hundred members absolutely dependent upon them. And what points might not such a number carry in the house, who were always ready and constantly attending with more diligence to destroy our constitution, than the rest were to preserve it? who represented not their country but themselves, and always kept together in a close and undivided phalanx, impenetrable either by shame or honour, voting always the same way, and saying always the same things, as if they were no longer voluntary agents, but so many engines merely turned about by a mechanic motion, like an organ where the great humming bases as well as the little squeeking trebles are filled but with one blast of wind from the same sound-board. Yet a few of them may in some measure be distinguished from those point blank voters, whom neither their country's safety, nor their own more dear and valued interest, nor the persuasion of their once intimate friends, nor fear of reproach, nor love of reputation could ever prevail to join in an honest point, or dissent from a question that carried in it the violation of the rights and properties of the subject. These are the men who have persuaded his majesty, or rather assumed to themselves not to fill up any vacant offices whilst the parliament is sitting; but to keep all pretenders in dependence till the end of the session, and bind them up to their ill behaviour, which will then be their best pretence to demand their wages of unrighteousness: witness the commission of excise the last session, which was sued for by, and promised to above thirty competitors, who all did their utmost to signalize their several merits for an office, which doubtless will be at last divided among those who have deserved worst of their country. By these means they made their numbers and interest in the house so great, that no miscarriage in the government could ever be redrest, nor the meanest tool belonging to them be punished: some of which they did indeed take into their own hands, which raised in the people a high expectation that some extraordinary penalties would be inflicted upon them; when their design at the same time was nothing else than to protect and screen them from the ordinary course of justice. Such is now the difference in point of corruption between a common jury, and the grand jury of the nation! Such a mutual assistance and support have they been to one another in the several mismanagements of their trusts: so favourable have they been to their own creatures, and so implacable to those who have any way opposed their unjust proceedings; witness their scandalous partiality in the case of Duncomb, which I hope to see printed at large for the satisfaction of the public. If it were truly represented, I am sure there needs nothing more to excite in the people a universal detestation of their arrogance and injustice. And yet do these apostates pretend to value themselves upon their merit in contriving that most destructive project of exchequer bills, by which all impartial men must either think they notoriously dissemble with us, or that they have indeed lost their senses when they speak of publick service: the word is so unbecoming in their mouths, and so aukwardly pronounced, that they seem not to breathe in their own element when they usurp the name. These are the men who have endeavoured to render our condition hopeless, even beyond the power of the king himself to relieve us: for though his majesty be deservedly loved and honoured by his people for his readiness to do them justice, and ease their oppressions, yet can we not expect it from him whilst he is thus beset and surrounded, and his palaces invested by these conspirators against his own honour and the welfare of his kingdoms. The only remedy therefore that remains, is, to chuse such a parliament who lie under no temptations, and are acted by no other motives than the real and true interest of his majesty and his dominions; a parliament that will fall unanimously upon publick business, and be free from those petty factions and personal piques which in the late session so shamefully obstructed and delayed the most important service of the commonwealth.

9. If it should be pretended, that the nation is yet unsettled, and the fear of king James has forced them upon these extraordinary methods for their own preservation: I answer, That no cause whatsoever can be justly alledged in vindication of such vile arts and pernicious practices. But I would further ask them, what necessity there is upon that account for their gaining such prodigious estates to themselves in so short a time, and in so merciless a way, when the nation was racked to the utmost by taxes in a long and expensive war? Is it the fear of king James that has brought such a reproach upon our Revolution, as if it needed to be supported by such mean and unjustifiable practices? Is it the fear of king

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James that makes us content he should live so near us, or that he should be maintained at our own charge of 50,000*l.* per annum? Or has not rather king James been made the pretence for the unwarrantable proceedings of our conspirators during the war and since the conclusion of the peace? It is very strange that king James, who is but their jest in private, should be thus made their public bugbear to frighten us out of our senses like children: so that king James must be at last our ruin abroad, who could not compass it by all his power and interest at home. And in this sense I am of their opinion that we are not yet quite delivered from the fear of King James, who must be made the instrument of our slavery by those very persons who pretend their greatest merit to consist in delivering us from him. But what is this but making the old abdicated tyrant a footstool to ascend the throne of absolute power, and a scaffold for erecting that proud and stately edifice from whence we have so justly tumbled him down headlong? But it is to be hoped the nation will be no longer imposed on by such stale pretences as these, and that a well chosen parliament will not fail to pass their severest censures upon those who would thus jest us out of all that is dear and valuable amongst us: that they will no longer resemble a flock of sheep (as Cato said of the Romans in his time) that follow the bell-wether, and are contented, when altogether, to be led by the noses by such whose counsels not a man of them would make use of in a private cause of his own: that they will at last vindicate the honour of England, and imitate their wise ancestors in hunting down their beasts of prey, these noxious vermin to the commonwealth, rather than suffer themselves to be led in collars and couples by one mighty Nimrod, who upon the turning up of his nose shall expect a full cry of sequacious animals, who must either join voices, or be turned out of the pack.

10. Notwithstanding what I have said, I would not have any of them either really imagine themselves, or falsly suggest to others, that I envy them their places and preferments; which I am so far from doing, that I wish they rather had them for the term of their lives: I desire only they may be subject to the laws, and to some power on earth that may call them to account for their misbehaviours, that they may not be their own judges, that our sovereign remedy may not prove our chief disease, and that the kid may be seethed in something else than its mother's milk. Nor would I by any means deny them their seats in parliament, provided they are in a condition to speak and act freely, and discharged from those temptations which I find they have not constancy enough to withstand; for after all, I still believe many of them so honest, that nothing but money or preferments will corrupt them. But if nothing will satisfy them but the downright subversion of our constitution; if they will be content with nothing but the utter abolishing of all laws, and the rooting up of those fences and securities provided by our ancestors for the preservation of all things that are sacred and esteemed among mankind; it is high time for the electors to look about them, and disappoint their unreasonable and exorbitant hopes, and to spew them out as detestable members of the Commonwealth; not only as unfit to be trusted with their liberties, but as unworthy to breathe in the air of a free government.

11. If any should say, That the alterations in elections will stand us in no stead, since whoever are chosen will still be bought off and bribed with court preferments: I answer, it will require a considerable time to new-model and debauch a house of commons, nor can it be done but by displacing all those who are already possessed, to make room for these new comers, which will make the trade and mystery of bribery more plain, and consequently more abhorred. And since no parliament can now sit above three years, the court will meet with fresh difficulties to interrupt them, which may possibly at last make them weary of these practices. It is true, indeed, this consideration ought to make us more circumspect in our choice of members, for though we should chuse but an inconsiderable number of pensioners, yet they will soon be able to work over a majority to their side: so true is the saying, 'A little leaven leavens the whole lump.' Whoever therefore out of any particular friendship, or other motives of fear or private interest, should vote for any one person so qualified; let him consider, that as much as in him lies, he makes a compliment of all the liberties of England to the insatiable avarice and ambition of statesmen and court-ministers. Since therefore we have so narrowly escaped our destruction, and one session more of the last parliament would infallibly have ruined our constitution, we cannot surely be so grossly overseen as to neglect the opportunity now put into our hands for avoiding the like hazards in time to come; which may easily be done, if the freeholders and burghers in England will petition and engage their representatives to consent to a bill which shall be brought into the house, to incapacitate all members for holding offices and preferments: or if it should be thought too much to debar them altogether from the enjoyments of posts of honour and advantage, let them keep them during good behaviour, and not otherwise; that such places may not be reserved in store for those who shall be from time to time elected, and thereby a continued course of corruption be carried on successively through the whole nation, who will in a few years insensibly find themselves so universally infected with this insinuating vice, that we shall be thoroughly ripe for destruction, and readily expose to sale the liberties of England by auction to the fairest bidder. If it was deservedly thought one of our most dangerous grievances, that the judges, who only declare the law, should hold their places *ad bene pla-*

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citum: what condition must we be in when our law-makers themselves are subjected to the same temptations? Or what advantage have we got by having our judges commissions for life, when our very legislature itself is prostituted to bribery and sordid gain? The fortune of England is now brought to the nicest point, and there are critical seasons, which if neglected, will never again be offered; and should we now fail in our duty to our country, we shall assuredly fall unpitied by the rest of the world. But if on the other hand we can by our foresight and diligence prevent for the future the bribing and corrupting of parliaments, it is not to be imagined what security, what happiness, and what immortal reputation will be the never-ceasing concomitants of such a settlement. If the very rump of a parliament, even in the midst of domestic discontents, and beset on all sides with foreign assaults and invasion, were able by that one self-denying act to maintain the public welfare from the danger of inward convulsions at home, and violent concussions from abroad; if that small and broken number without any head, and under so many disadvantages, could by this only means secure our peace, and so widely extend the repute and honour of the English name; what country or what region could ever give limits to the unbounded reputation of a full and legal parliament so nobly qualified? What nation could there be so powerful as to resist our forces, or so politic as to infatuate our counsels? There is nothing within the compass of human wishes that we might not assure ourselves from the wisdom and virtue of such a disinterested assembly, headed and incouraged by the most auspicious prince that ever yet swayed the English sceptre: a prince who only waits the opportunity of our own willingness to be happy, and is fired with a longing eagerness to see the nation deserve the glorious effects of his inimitable conduct, and inexhausted beneficence; who only wishes a happy conjuncture of a free and unbiassed parliament, that he might join with them in the rescue of himself and us from the oppression of those devouring harpies, who would tear off the yet green and flourishing laurels from his majestic brows, and ungratefully cast a tarnish upon the lustre of his bright and shining atchievements: that he might dissipate those inauspicious vapours which have hindered him from breaking out in the height of his meridian glories, and intercepted his benign and noble influence upon his inferior and dependent orbs: that he might deliver up to justice those traitorous and insinuating parasites, who endeavour to inspire into his sacred breast an unworthy jealousy of his people, as if he wanted the assistance of a Standing Army to secure and establish to himself that throne which he has already so firmly erected in the hearts and affections of his subjects: and lastly, that he might wholly discharge himself of those wretched and perfidious statesmen, who endeavour to fix the brand of their own acquired infamy upon their master, that they may make him as hateful to one party for their vices, as he is already to another for his own virtues, and deprive him of the glorious title of the world's greatest benefactor, which he has so justly purchased to himself by his immortal performances.

12. I shall conclude with one word, in answer to such who may possibly think I have reflected too much upon the supineness and base neglect of the people of England; as if it were possible they could be such monstrous and unnatural self-murderers, as to give away with their own breath and free consent all their rights to their estates and lives. I confess I should be glad to find my labour lost upon this account: but I desire such to consider, that there are many honest and well-meaning Englishmen who do not distinguish between our present government, and our present way of governing; whose distance from the parliament, multiplicity of business, or other circumstances, in the world, render them less able to penetrate the designs that are now carrying on for the total subversion of our most excellent constitution. And it is plain on the other hand, that the great and unwearied diligence of the present conspirators against our government, in order to support their future elections, does infer their thoughts, that the majority of the electors are capable of being imposed upon in this gross and unexampled manner. Since therefore those who are making us slaves, think it no great difficulty to effect their purposes, I see no reason why I ought to be so tender as to forbear expressing my fears and apprehensions of their success.

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No XII.

An Essay upon Taxes, calculated for the present Juncture of Affairs in England.

By the Marquis of Halifax. 1693.*

SINCE it is of the last consequence to every true Englishman, that the present war should be carried on for the preservation of our liberties and religion, against the common enemy of both; and notwithstanding the false and foolish insinuations of some discontented Jacobites, that a peace with France were more necessary than a war; and that it is more carried on for the sake of others, than ourselves; and that if it were necessary, it might be better carried on by ourselves alone, than in conjunction with confederates; and that the only way to secure our religion and liberty, obtain a safe and secure peace, and avoid the great burthens we are subject to for the carrying on the war, were to cast off the present government and take measures with king James and the king of France; yet there is nothing more clear than that these notions are altogether absurd and impracticable: and that the true meaning of it is, only to give up all that is dear to us, into the hands of two princes, who have always preferred the design of subverting our religion and liberties, to all other considerations whatsoever; and that it is much better to fight for Flanders than for England, and in conjunction with confederates, than alone, is what will bear no dispute. All that admits of a doubt is, what are the best means and methods to carry on this war. As to the first, relating only to the raising of aids sufficient for this undertaking, I thought I could not do a more acceptable service to my country, than at this time to contribute my poor endeavours. As to the latter, relating to the military designs, and manner of executing them, I must acknowledge myself wholly incompetent both by my education and experience; and shall chuse therefore to recommend that matter, with my good wishes, to those whose province it is, and especially to my sovereign, who I judge must needs be better informed in this matter than any other prince or person whatsoever.

The method I shall pursue to set this matter in a clear light, shall be to lay down some general rules or maxims by which our ancestors have steered in the laying of impositions, which had great regard to the constitution of the government, and condition of the people, and therefore are not easily to be departed from. In the next place, I shall endeavour to examine the several taxes that are now in use, and such foreign taxes and projects as are most in vogue, and by some thought to be more eligible to be introduced, especially that of a home excise, and shew how far they are consistent or inconsistent with the government, ease, and liberty of the people; and in the last place, upon the whole offer my opinion, what are the best methods and expedients to raise money by.

As to the matter of those aids, our ancestors have observed these rules. First, they must not consist of things of common necessity or livelihood, but rather superfluity. Secondly, they must not burthen our native commodities and manufactures, materials, or other things relating thereunto. Thirdly, they have always avoided to impose upon things wherein the people had no benefit or advantage, but rather upon land, trade, and other gainful professions. Fourthly, they have always avoided new and foreign taxes; and when proposed, have declared they could not grant them without advising with those that sent them*; and several rebellions have happened on this occasion. Fifthly, they have had always great regard to the condition of the several ranks of men among us, to support them in the condition they are in, and consequently to preserve the monarchy. Sixthly, to charge money and personal estate not employed in trade, double to land and trade. Seventhly, above all, that equality should be observed in the imposition.

As to the persons, these rules were observed: First, the dignified clergy usually gave double to the laity, considering that they were freed from all personal services, and most other taxes; that their revenues were all upon old rents not subject to defalcations, repairs, or loss by tenants, or for want of them, or other diminution; and had great advantages in point of fines by renewal. And as for the other clergy, their tythes, and other profits, came into their hands with little charge, and that as well the dignified, as others, were provided for by laws, not to come in by purchase but free gift, and are now exempted from all foreign payments to Rome, and its dependance, to which all foreign popish clergy are subject. Secondly, as to the greater and lesser nobility, they were always treated favourably, being the chief basis and support of the monarchy, and were allowed for their port and necessary support of their dignities, and did rarely exceed in the payment of their subsidy, the sum of 20*l.* for 1,000*l.* which they called a sparable part. Thirdly, as to the rich usurer or tradesman, whose family and expence was small, and gains great, and escaped most burthens, as not being so visible as lands;

* Somers' Tracts, 1 Coll. vol. iv. p. 63.

* Rot. Parliam. 9 Edw. 3rd. nu 5. Vide C. Instit. 4 Part. fol. 34.

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and the considerable freeholder, whose estate is generally held in his own hands, and managed by himself, and consequently was less discovered than the nobleman and gentleman's that were rented, and made both the profit of landlord and tenant; which, according to the old maxim, is double the rent in green-sod, and treble in arable; the charge of the latter amounting to a third more than green-sod: So that in truth, they have all their livelihood allowed, and more in the value; and none of all these being obliged by their quality or custom to any port, and are the proper basis of a democracy, or commonwealth; these were generally rated more strictly without any allowance, to prevent the increase of their number and growth. Fourthly, the common artificer and labourer having a dependance upon the nobility and gentry, and not being able to subsist without them, and consequently a farther support to the monarchy, were usually exempted, unless by reason of money or personal estate they fell within the limits of the subsidy; from hence grew that ancient saying, that in taxes, *size cinq*, was to be easy, *quatretrois* to be fully charged, and *deaux ace*, to be exempted. Nevertheless, in the poll acts, which came but rarely, these inferior sort were sometimes brought in to bear their part. Thirdly, as to the quantum, manner of collection, and equality of imposition, these rules were observed: First, that it did not exceed by any means the common necessity; and that the prince as well as the parliament, should shew a great tenderness of the people in their demands and levies upon them; of which we have a notable instance in q. Elizabeth, who released half the subsidies granted her, when her occasions did not require it; which had a mighty influence upon future grants. And it is observable, that all those princes who have not stretched prerogative to levy taxes not warrantable by law, or to levy them with too much rigour and exactness, or to impoverish the people, and have expressed a care and regard to their ease, wealth, and welfare, have ever been the most fortunate, great, and prosperous; contrary to the maxims of the present age.

As to the manner of collection, they have taken great care that there should be as much ease, and as little charge to the king or people in the collection as may be, by the multiplication of officers, penalties, or subjecting their houses, or estates, to the inquiries, or informations of officers, &c. As to the equality of imposition; this has been strictly observed, being always the same rate in the pound. Nevertheless, with such qualifications and exceptions, as made it rather a moral equality, than a mathematical one, having respect to the condition of the persons, as I have before shewed, limiting the sums both for real and personal estates, below which they should not be charged, viz. allowing defalcations for debts to be ascertained by the oaths of the parties charged, and for the decay of cities and towns in tenths and fifteenths. Lastly, in all cases the king appointed the commissioners generally of persons unconcerned in the places where they acted, and at his own charge, that it might be done with the more indifference and equality, to whom, in truth, by the constitution, the appointing of all officers for the execution of the laws does belong; and once at least in every age, as I could easily shew, the parliament had granted that the commissioners and assessors should be sworn, and have liberty to examine all persons, not exempting the parties themselves, upon oath, for the better discovery of their real and personal estates, that length of time might not produce too great an inequality; and that the aids might be improved in some proportion to the value of things, of labour, and of service, and the improvement of the wealth of the people.

As to the second point concerning the taxes now in being, or in vogue: and first, as to the land tax, or monthly assessment, being nothing but a military contribution taken up in the civil war, and proportion to the condition of the kingdom, as it then stood forty years ago; the inequality is so exorbitant, both between county and county, division and division, parish and parish, and impossible to be rectified without a punctual survey of the whole, and lying wholly upon the landlord, where estates are not upon lives or fines; wherein the dignified clergy pay not one groat, nor money, nor personal estate come in to the aid; and which lies so heavy upon the nobility and gentry above all others, to the weakening and diminishing their estates, who are the chief support of the monarchy: I take it to be the most impolitick and unreasonable method of raising great sums by, that ever was introduced in any nation, and impossible to be long borne and continued. Secondly, as to the double excise; though this has some influence upon our barley and malt, and lies hardest upon our inn-keepers and alehouse keepers, by the discouragement of the vent; yet were the armies well paid, which is their greater hardship, I see no great inconveniency in the continuance of it, during this occasion of the war, especially since it introduces no new charge in the collection, nor subjects any new persons to penalties or officers. Thirdly, as to the new impositions upon the customs, during this war at least, they may be borne, though that of sugars, which began before the war, may require some relief, at least when the war is ended. Fourthly, the poll tax, as it now stands, is grievous to the meaner sort, as to their children, and deserves to be better considered; and though much exclaimed against, yet is an ancient way of taxing upon extraordinary occasions; and in all other things far more equal than the former were, which taxed titles and professions alike; and though it be objected, that all noblemen and gentlemen pay alike; notwithstanding the difference of estates; yet considering that the lands are all under a double tax, and that they multiply that tax according to the horses that they find in the militia, I think they are sufli-

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ciently charged, and much more equal than in former methods: and that this tax is not wholly to be laid aside, but may be easily rectified and made useful.

As to new projects that have been much discoursed of, I shall reduce them to two heads, first, things of large credit, upon some perpetual funds. And secondly, the home excises; as to the first, there are two difficulties to be overcome, to make these practicable; first, to find out such a fund; which if upon the present revenue, will be a lessening of it; if upon any fund being perpetual, may meet with some difficulties in the grant; and in the next place, the novelty of the thing, the loss of a principal for a perpetual interest, or the long distance of time if it be repaid; upon which calculation all these projects are founded; the breach of the exchequer credit by king Charles, and ever since, and the frequent breaking of the bankers, will make men very shy of parting with their money upon new projects at a distance. Nevertheless if it were tried for a small sum at the beginning, it having been experienced to be so useful, beneficial, and practicable by our neighbours the Dutch, and is in itself very reasonable, it might gain some place and credit here, and would supply the want of money in specie; which, for want of bringing our coin down to the value of silver and gold, the obstruction and balance of trade, and the occasions for money abroad to our armies and confederates, is so much lessened, that it does very much require some expedient; especially when public taxes are so great.

In the next place, I shall proceed to consider of that of raising moneys by excise upon our home commodities. First, a general excise upon home commodities is a real land tax, and will have the same influence upon the value of lands and rents, as that we call a land tax or monthly assessment, hath; and will raise at least seven, if not ten times as much, and consequently be as bad as a land tax so many times double. Which I thus prove: the difference must be either in the matter, or the manner. As to the matter first; a general excise upon home commodities, and a land tax, or monthly contribution, differ not essentially, since both are a duty upon the same commodities, which are the product of land; only in this their main difference consists, that a monthly contribution is a composition in gross *per mensem*, for all the commodities the land produceth; and a general excise is by retail upon every particular and parcel thereof. As to the manner, their main difference consists in three things: first, as to the persons that pay it. 2dly, as to the time of payment. 3dly, as to the equality of the imposition. All which shall be considered in this second head. Secondly, that it will have the same influence as a monthly contribution so many times double, and not prove an insensible tax, as is commonly alleged, will easily appear by considering two things: first, whether it will chiefly lye upon the buyer or the seller, and consequently cause a rise or fall upon commodities. Secondly, whether it be likely in point of time and equality, to afford any considerable advantage to the seller. As to the first. It must be measured by the necessity of the buyer or seller; for it is an undoubted truth, that if the necessity of the buyer be greater than the seller, the market will rise; but if that of the seller be greater than the buyer, the price of commodities must fall; and any duty laid upon commodities will lye upon either accordingly. But as to the present case in England, I think there is nothing more apparent, than the plenty of home commodities, and the want of people to consume them, which is in truth the principal cause of the present fall of rents, and the price of commodities: the consequence of which necessarily will be, that whatever duty is imposed upon the commodity, the buyer will have it so much the cheaper, since it is in his choice of whom to buy, and indeed who shall sell, and who not. As to the time and equality, it must be allowed that the excise hath some advantage of the land tax, since the time of payment is not until sale, and all men seem to pay alike for the same thing; yet when it shall be considered, that most of the trade of this kind is upon credit, and not for ready money, and that when ready money is paid, a great abatement of the price is expected: and that the commodity doth vastly differ in price and goodness, and yet shall pay all alike, as beef, mutton and corn, &c. and above all, that the commodity will be burthened above seven-fold by this payment in parcels; it will be found these advantages will be much over-balanced; to which I may add the vast charge, trouble and slavery in the collection, which draw forth from the subject twice as much as will come to the king's coffers, and beget an army of officers, and a further army of soldiers to second them; a consideration of importance, more than all the rest, and renders it of all practices the worst. Secondly, a general home excise will destroy trade, which will appear thus: whether the fund of trade in England be money, or home commodities; now there is nothing more evident, than that the main trade of England is in the return of our home commodities, and not that of money, which is the main that the Dutch trade is driven withal, they having few commodities of their own countries to export, nor indeed enough to support the 20th part of their own people, which renders this kind of tax most proper there, though very destructive here, all impositions still discouraging the vent of the commodities on which they are imposed, as the experience of all former times and places doth abundantly prove; besides the great consumption of all foreign commodities here, is by such as have dependance on the product of their country, and not upon trade, as they all do in Holland; the vent of which, if discouraged or lessened, abates the foreign trade likewise, and the commodities imposed upon there, are most foreign, but here native; and estates there personal, but here real. Thirdly, this will overthrow the

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substance of all the nobility and gentry of England by the fall of the value of their lands and rents; for if the present land tax hath produced an effect to such a degree already, and that by experience we find the land tax draws more money out of the country than what it can bear, disabling the tenant to pay his rent, or carry on the trade in the country, otherwise than upon credit; what must the case be when 7, or 10 times as much will be raised upon the same thing by this new way? Fourthly, a general excise puts an end to the use of parliaments, and quite changes the present condition of the government; for having already given duties in all foreign commodities, should they admit of this upon native, there were no more to be given, nor could it be carried on without a military power to second it, and might possibly hazard the government itself, if the people should not swallow it; and if once got up, will never be laid down. Fifthly. It can be of no use to a present supply, since it will ask a long time to settle it; and neither afford much money, or credit, till it be so settled; and that the experiment be tried, whether it can, or will be borne, which this town, under the oppression of a war and power of an army, would not yield to.—If it be objected, 'That the Dutch raise greater sums thereby, than we can any other way, and by that are enabled to make war more powerfully than we.'—This is a perfect mistake; for their excise is not able to answer the ordinary charge of the government, and is in truth their ordinary revenue; and their war is maintained by their 200, and 100 Penny-Tax, by way of our subsidy upon personal estate.—Sixthly, That this will raise near thrice as much as will come to the king, will thus appear; in the vent of all our home-commodities, especially in any considerable quantities, there is one at least that goes between the grower and first seller, and the consumer: as the malster, and brewer, or alehouse-keeper, between the barley, and the drink; the engrosser, mealman or baker, between our wheat and our bread: the butchers between our meat; and the butcher and tallow-chandler between our suet and candles; the higler, carrier, or poulterer, between our poultry and wild-fowl; iron, lead, wool, tin, leather and salt, between the first founder and maker, their retailers, and other trades that are employed in the manufactures that are made of them. Now it cannot reasonably be supposed, That whoever is the first buyer of these things, or any other that goes between the buyer and the consumer, will pay the full price to the grower, and pay the duty of excise out of his own purse, which will require a greater stock; and gather it in again of the consumer, without interest, or profit, much of which trade will be upon credit, some of it comes short home, especially since it is in his power to abate it in the price from the first grower. Nevertheless, he will certainly raise it in the price to the consumer again; and so the penny will be doubled, and probably raise the price more than the duty, upon supposition that he pays the duty and may come to be a loser by it; and this being disperst all the kingdom over, must needs create a vast number of officers and charge in the collection to the king; to which I may add, the great penalties with which it must be supported, and attended; and the keenness of the officers to exact them, and the great discouragement all this will bring upon the consumption, with the great disturbance and slavery that it will bring upon the people, to have their houses subjected to the searches of officers, and their persons and estates to entries of goods, and to penalties upon that account. Now the case is not the same in Holland as to any of the particulars before-mentioned, as will appear by these following:—First, For that it is their interest to discourage the consumption, and to occasion parsimony, most of the commodities being foreign; and to encourage the export of them, upon which their whole trade and livelihood depends, but ours the quite contrary.—Secondly, They can certainly raise the price upon the first buyer, because of the scarcity of the commodity; and that besides that little which the country affords, it is all in the hands of some few merchants or engrossers; and the necessity of the buyer is far greater than that of the seller, through the multitude of inhabitants, and the smallness of the product for necessaries for life.—Thirdly, Their collection is very easy and cheap; for the merchant secures the excise upon his first entry at the custom-house; and for the rest, they have no market but in walled and populous towns; so that it is all collected there with few hands, and little trouble to the people.—Lastly, All the excises of Holland, both upon foreign commodities and home, though multiplied and advanced to the last degree, together with the other revenues that belong to the crown of Spain, and the Church, have been computed but at two millions a year, monasteries and tythes included, and are anticipated by debts for several years; and but sufficient to pay the interest; and it is the 200 penny, and 100 penny upon personal estates; that is the thing that supports their wars upon extraordinary occasions; and therefore probably, the excises here will not raise such sums as we imagine, especially upon some few things; and yet the charge, slavery, and the inconveniencies before-mentioned, will be equal; and the hazard the government will run in rendering it odious, and disgustful to the people, are so great; and above all it can turn to no account but for a continuance of time; and that it is a foundation for any government, or ambitious prince that would subvert the constitution, and enslave the people, to support an army, and carry on his designs if once introduced, by the continuance of it; and therefore I think no Englishman will be willing to make the experiment.—As to the last particular I undertook, which was to give my opinion what methods were the most eligible to raise mo-

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ney by: having in some measure prevented it by passing my censure upon those that are now in practice and vogue; I shall conclude all with proposing that of the antient way of subsidy upon a true pound rate, according to the wisdom and constant practice of our ancestors, as the most equal, most reasonable, and most suitable to our constitution; and therefore most eligible above others: which I shall endeavour to prove by these arguments following, and by answering those objections that are usually made against it.

But before I come to these particulars, I think it necessary to give some general account of the antient form and method of subsidies, tenths and fifteenths; the two latter having been totally disused, and the former but rarely, and not pursuant to the old method, since the beginning of the civil war; a subsidy before the war did usually amount to 70,000*l.* * the last subsidy-book being the rule by which the future were given; wherein every man's land was valued at a certain rate beyond reprises; and this was not altered but once in an age, when there was an act made on purpose to make a review by the oaths of the commissioners, assessors, and examination of the parties themselves, or any other person knowing therein; and all the variation otherwise in the subsidies, was in the personal estate and money, and the allowance for debts, and a great number of children, to which they had regard upon application made by the parties, pursuant to the provision in those acts; all persons under 5*l.* in personal, and 3*l.* in real, as formerly rated in the king's books above reprises, were excepted; and all goods and stock in trade and household-stuff, except wearing apparel, were included: and a subsidy was 4*s.* in the pound upon real estate, and 2*s.* 8*d.* upon personal, payable by two payments. And although 2*s.* 8*d.* may seem to be less upon goods, than 4*s.* upon lands; yet when it is considered, that lands are rated according to the annual profits; and not their intrinsic value of purchase; and that this is almost treble the profit of money at 5 per cent. and that all other goods have no profit or interest to attend them, personal estate is more than doubly charged, as I have before asserted.

As to the tenths and fifteenths, they were a certain rate imposed on cities, towns, and boroughs, in respect of their moveable goods, and did amount to about 20,000*l.*; but there was usually a clause to reserve a sum for such cities and towns as were decayed. As to the arguments for the subsidy or pound-rate, having said so much already, I shall reduce them to very few heads. 1st. That it is equal in the imposition, nobody can deny; nor that none can pay more than he is rated, by any body's being undervalued. Secondly, That it is made more equal and reasonable, by the allowance of debts, empty houses, drowned or unprofitable lands: but as for lands, let or unlet, since the profits may be made in hand, as well as otherwise, there was never any allowance; the reasons not being the same with houses, which are a burthen, and yield no profit. Thirdly, Here the clergy, and all that have estates upon old rents, and personal estates in money, goods, &c. shall pay; though the assessments brought in the full value, yet the Commissioners did make an allowance for the port of the person, according to his quality.

But I come now to those Objections which are usually made against it; viz. First, That it is impracticable, as late experience has proved. And secondly, That it will not raise such sums as are requisite for the present juncture. To the first of these I answer, That the experience of all former ages is a sufficient evidence; and the reasons of the late failure have been two visible ones: First, The countenance that the monthly assessment hath met with from the court; and the discountenance this hath found, when the parliament granted the first 12*d.* aid, and the king to name Commissioners, that they put in all the same again which were in the monthly assessment; which as it was the highest disservice imaginable to the crown, in favour of their particular countries, so it is like to prove the most fatal to the nation, disabling it to raise any great sums from the great inequality of it, and inclining the party oppressed to embrace any new project that may hazard the present government, or prove destructive to the nation. Secondly, The zealous endeavours of the Western and Northern members to continue the monthly assessment, which is so favourable to them; which when they consider the consequences beforementioned, I hope will be no longer insisted on, at such a time as this, when all that's dear to them is at stake. But to shew that this is easily practicable, if the parliament will follow the methods heretofore used by their ancestors, I shall refer you to the quotations in the margin *, and to those acts, which you will find in the statutes at large, where the assessors were upon oath, and the Commissioners named by the king with power to examine all persons upon oath. But if these methods be thought too rigorous, I propose that the Commissioners may only be of his nomination, according to the right of the crown, and the practice of all ages, whose only power is to see the assessors do their duty to put the law in just execution; and that every man may be bound to deliver into the assessor the true value of the lands in the place where it lies, according as it is rented; and if in their

* Vide L. Coke's Instit. 4. p. 33, & 34.

* 32 Hen. 8. ca. 50. p. 715, the assessors and parties paying upon oath. 34 Hen. 8. ca. 28. p. 833, the same. 37 Hen. 8. ca. 25. p. 893, the same. 2 & 3 Edw. the 6th. ca. 36. p. 970, & 971, the same. 3 & 4 Edw. the 6th. ca. 23. p. 1004, 1005, the same. 7 Edward the 6th. ca. 12. p. 1052, 1053, the same. 4. & 5 Phil. & Mar. ca. 13. p. 1158, & 1159, the same.

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hands, according to the highest value that it pays in parish-taxes, with any thing that is rented, under pain to forfeit a year's value for every concealment of all that he hath in that place. And that the commissioners have power to examine any other but the person himself concerning the value of the lands, and the parish-taxes, in order to an equal pound rate, and to levy the penalties upon concealments. And if it shall be thought reasonable to allow any thing for the port of the person, that it be ascertained by a tenth, or any other part to be deducted to the commissioners from persons above a certain quality, but to lose that benefit upon any concealment.

As to the not raising a considerable sum, there can by no way be so much raised, as by this: for we find by experience, that the monthly assessment, though now screwed up higher than ever, does not raise above 1,651,702*l.* 18*s.* but every 12*d.* in the pound will raise a million, and the four shillings that were given by way of 12*d.* Aid the first year, would have raised four millions, which I prove thus: the monthly assessment at 70,000*l.* per mensem, raises 840,000*l.* per annum; and of this I am sure not near a third part of England pays above 12*d.* in the pound, and some not above three-pence, and so upward to a shilling: now if these two thirds were brought to pay a shilling, and the others reduced, I leave it to any reasonable man to judge, whether the remaining 160,000*l.* would not have been raised, especially if money and personal estate are called in to aid; and this I shall observe to you, That all the home-excise of the province of Holland, as I have been credibly informed, do not raise above a million, and the rest of the provinces not above half a one, though multiplied and extended to the utmost: and therefore if laid only upon some few things here, would not raise such sums as are imagined; and for that reason also not worth the experiment, to change the antient methods of our ancestors, which will be found in the conclusion the most equal and reasonable of all others.

PS. This Paper being writ and calculated for the year, 1692, before the parliament sat, and had adjusted their aids, a full and successful experiment has been made for a million upon a perpetual fund, and probably might bear half a million more, if the time for subscription and fund were enlarged; there has also been trial of another 4*s.* Pound-rate, which by reason all oaths were waved, and very small penalties put upon the concealment, and the commissioners not of the king's nomination, as I am informed, hath fallen short of the two millions that were expected from it; so that other methods must be taken, as are herein before proposed, if you would make it any thing equal or effectual. There has also been new impositions laid on several commodities, which by the neglect and miscarriage of convoys, and want of station-ships and cruizers to clear the channel from privateers, as to trade in general, but more particularly to the Mediterranean, Turkey, and West-India trade, have produced but very little; also the duties upon sugar have been wholly taken off, which might have been born during the war. These things I thought necessary to observe since they have made alterations in some matters contained in this Essay.

No XIII.

A Letter to a Member of Parliament, shewing that a Restraint on the Press is inconsistent with the Protestant Religion, and dangerous to the Liberties of the Nation. Printed in the Year 1697.*

The advantage of Printing.—Reason against restraining the Press.—Inconveniences attending the restraining of the Press.—Objection from the dangerous Consequence of the Liberty of the Press answered.—Abuses of the Press.—Slavery promoted by restraining the Press.—Liberty of the Press secures all other Liberty.—Of Physic.—How far Licensers are to be trusted.—A hinderance to the promoting of Knowledge and Truth.

SIR, According to your commands, I here present you with those reasons that oblige me to oppose the restraining the Press, as inconsistent with the Protestant religion, and dangerous to the liberties of the nation: both which I undertake to shew. And in order to prove the first, I beg leave to premise, First, That which makes a man to differ from a brute, wholly uncapable of forming any notion of religion, is his reason; which is the only light God has given him, not only to discover that there is a religion, but to distinguish the true from the many false ones. He therefore that employs his reason to the best of his ability to find out religious truth, in order to practise it, does all that God desires: for God, who will not command impossibilities, can require no more of him, than that he impartially searches after, and endeavours to discover religious truth, by the use of that reason which was given him for that end. He that does this, may have the satisfaction of doing his duty as a rational creature, and may be sure, though he

* State Tracts in the reign of William 3, vol. 2, p. 614. See proceedings of April 1, 1697.

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misses truth, he shall not miss the reward that is due to him who obeys his Maker, in following us well as he could, and no more could be his duty, the only guide God has given him to judge of truth and falsehood. On the contrary, he that neglects to do this, is disobedient to his Maker, in misusing his rational faculties; and though he should light on truth, the luckiness of the accident will no way excuse his disobedience: for God will judge us as we are accountable (that is, rational) creatures; and consequently our reward from him, whether we hit or miss of truth, will be in an exact proportion to the use we make of our reason: And if God has obliged us to use it as the only means to distinguish truth from falshood, that alone must be the way to find the one, and avoid the other. Now the way that a man's reason does this, is by examining those proofs, arguments, or mediums, that either himself or others have found out, and by comparing them with his common and self-evident notions, by means of which he finds out the agreement or disagreement of any proposition with those standards and tests of truth.—Though this is the only way to discover truth, yet if a man was left wholly to himself, without any to inform his judgment, he would make but a very small discovery in religious, or any other truths: Therefore it is men's mutual duty to inform each other in those propositions they apprehend to be true, and the arguments by which they endeavour to prove them: which cannot be done so well as by printing them, ten thousand books, after the letters are once set, being sooner printed than one transcribed: By the advantage of which, men, though at ever so great distance, may, with a great deal of ease and little charge, be exactly acquainted with each others sentiments. And it's wholly owing to printing, that knowledge is become, not only much more diffusive, but that a great deal of more useful knowledge has been discovered in a short time since that invention, than in many ages before. And if it has not had as great effect in most places with respect to religious as to other knowledge, it can only be, because the liberty of printing, as to the former, has been more restrained; for men have the same way of judging of that as of all other matters.

This being premised, it is clear that the Press ought not to be restrained;

1. Because it tends to make men blindly submit to the religion they chance to be educated in: for if it is once supposed unlawful to publish any arguments against that religion, it cannot be denied but that it is as unlawful to read and examine those arguments, that being the sole reason of forbidding the printing them: which necessarily supposeth they are to take their religion on trust, without any trial, which is the greatest fault that can be, next to having no religion at all: For I cannot see any ground a man has to hope to go to heaven, that will not be at the pains to examine what it is that God requires of him in order to his coming thither.

2. Because it deprives men of the most proper and best means to discover truth, by hindering them from seeing and examining the different opinions, and the arguments alledged for them. I can see no reason why it is more necessary for him that judges for others, than it is for him who judges for himself, to see the arguments on all sides; this being the only evidence by which any man is to judge. The suppressing the evidence in a cause where men's eternal happiness is concerned, is (I take it) much more criminal than in a cause of a temporal interest. So that a law to oblige the judges to hear the proofs but of one side, is not so bad as to trust the clergy of any one sect with the Press; who, to be sure, will suffer nothing to be printed but of their own side; and who too, in all probability, will misrepresent their adversaries and their opinions, more than a pleader will the party or cause against which he is engaged. And are not the people (for instance) among the papists, where the Press is effectually restrained, as ignorant of what can be alledged against the popish doctrines, as a judge that has heard but one side can be of the defence the other is to make?

3. Because it hinders truth from having any great influence on men's minds, which is owing chiefly to examination: for the more rational that makes an opinion appear, the greater power it will have on the affections, which are not moved without some sensible connection between the cause and the effect; for what does not convince the understanding, will have but little or no effect on the will: Which is one reason why men are obliged to try all things, because when they see the reasonableness of any opinion, it will oblige them to act according to it more heartily than when they take it on trust: and nothing more endears truth to us, than that its discovery is the effect of our own industry and observation.

4. Because it tends to make us hold the truth (should we chance to light on it,) guiltily; for that (as I have already proved) will not be accepted, if it be not the effect of an impartial examination, which makes error itself innocent: for if any thing in that case be a fault, it must be the examination, because that might have been prevented; but the opinion that is caused by it could not, that being a necessary consequence of the other. Men when they are left to themselves without any clergy at all, are more likely not only to judge for themselves, but to make a truer and a more impartial judgment, than when they are permitted to know the sentiments of the clergy but of one sect, who then may impose on them whatever out of interest they think fit.

5. One reason why God hath so formed mankind, that each alone without the help of others cannot well subsist, is to oblige them to mutual love and kindness, and to contribute to one another's happiness. And they want each others assistance for things of the mind as well as of the body. For a man would be in a miserable state of darkness and ignorance,

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were it not for the light that others afford him: and therefore they are obliged to increase as much as they can each others knowledge, especially in religion, which they can no otherwise do, than by communicating to one another what they think is the truth, and the reasons by which they endeavour to prove it. To oblige men to do this, God has not only implanted in them a strong desire to find out religious truth, but as great an inclination to teach others what they apprehend to be so; and there is no man who believes a doctrine to be true, but would be very glad to get it owned by others. Whosoever therefore endeavours to hinder men from communicating their thoughts (as they notoriously do that are for restraining the Press) invade the natural rights of mankind, and destroy the common ties of humanity. If we must, early and late, according to the wise man's direction, 'seek after wisdom as after a hidden treasure;' I cannot see how it will become the wisdom of a nation to endeavour by a law to hinder us from knowing more than the scanty measure of a party-licenser will afford us.—Not only the light of nature, but the written word (Levit. xix. 17. 1 Thess. v. 14. Heb. iii. 13) obliges every one, lay as well as clergy, to exhort, warn, rebuke, and use all means possible to bring his mistaken brother into the right way; which he can no otherwise do, than by first judging himself what is right or wrong; and then by using arguments to persuade him whom he judges in the wrong, to desist from it. And if, as the scripture supposeth, no man can neglect to do this without having his brother; every one has a right to print his sentiments, as the best, if not the only way to exhort, rebuke, reprove myriads of brethren at the same time.—In short, in all ages the greater men's zeal hath been towards God, and the more inflamed their love to their neighbours, the more they have thought it their duty (though with the hazard of their lives) to communicate to others what they judged to be the truth. And all sects, how different soever in all other things, do agree in thinking themselves bound thereto, as to the greatest act of charity; and consequently there is no sect that hinders others from publishing what they believe to be truth, but sins against the natural and revealed law, and breaks that golden rule (the foundation of all morality) of 'doing as they would be done unto.' For though they look upon it as impious and tyrannical for any to hinder them from imparting to others those doctrines they judge to be true, yet they themselves would hinder all others, who have as much right to judge for themselves, and are as much obliged to communicate to others what they judge to be a religious truth. —What can be more inhuman, as well as ungrateful, than to punish that person who out of love to truth, and charity to the souls of his brethren, bestows his time, perhaps to the detriment of his health and fortune, in publishing what he judges to be for their eternal good? If this be a just reward for such an undertaking, I cannot see how the clergy can deserve such riches and honours for doing but the same thing; that is, for instructing others in what they judge to be true.—Nothing can be more unbecoming the dignity of a rational nature, than to bar up the way to religious knowledge and wisdom, which men have no way to propagate, but by offering one another reasons and arguments: And there can be no pretence to hinder men from doing this by restraining the Press, but what will as strongly forbid them doing it any other way. In a word, men have the same right to communicate their thoughts, as to think themselves; and where the one is denied, the other is seldom used, or to little purpose: For, men as they are more or less hindered from communicating their thoughts, are more or less stupid and ignorant, and their religion more or less corrupted. And this is not only true with relation to Mahometans and Pagans, who suffer no printing at all, except the Chinese (whose knowledge above other Eastern nations seems to be owing to that art, though among them wonderfully rude and imperfect) but with respect to Christians, among whom one would think it almost impossible, considering what light and knowledge the gospel brought into the world, that any should be so grosly ignorant and superstitious as the Papists are, or that the Christian religion should be so much depraved as it is amongst them: and what is this owing to, but the denying the people the liberty of the Press, and all other ways of freely debating matters of religion? And had it not been for this invention, whereby men had such an easy way of communicating their thoughts, nothing but a second revelation could have freed them from that mass of ignorance and superstition the Christian world lay under; and which was every day increasing, and does still remain in a very high degree in those countries that groan under restraint, as Portugal, Spain, Italy; which last, suitably to the freedom once it enjoyed, abounded with men eminent in all learning and knowledge, as well as virtue and bravery: and that it is so much degenerated now (the climate and the make of their bodies being still the same) is owing to nothing but that priestcraft which forbids all freedom; contrary to the practice of antient Rome, where to think on what one had a mind to, and to speak one's thoughts as freely as to think them, was looked on as one of the chief blessings of a free government.—It is not only in Popish, but in Protestant countries too, that according to the restraint men lie under, ignorance, superstition and bigotry does more or less abound. Denmark, Sweden, and several other countries, are undeniable instances of this; and it cannot be otherwise, for there is little difference between having no reason, and not exercising it. And it is evident that the clergy themselves are not only more knowing, and reason much better, but are much more sober, careful and exemplary, where liberty of debating is allowed, than where denied. From what has been urged, I think I may safely con-

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clude, that men, if they regard the employing their rational faculties as God requires, and (the consequence of it) the discovery of truth in religion, and there being influenced by it as they ought to be, are obliged to allow one another an entire liberty in communicating their thoughts, which was never forbidden but where interest supplanted religion.

6. There is no medium between men's judging for themselves, and giving up their judgments to others. If the first be their duty, the Press ought not to be restrained, because it debars them from seeing those allegations by which they are to inform their judgments. All the arguments that are or can be urged for the regulating the Press, have no other foundation than that of people's being liable to mistake, and subject to be imposed on by fallacious arguments and specious pretences; which instead of proving what they design, only shows the greater necessity for the freedom of the Press: for the more apt men are to mistake and to be deceived, the less reason there is for their relying on any one party, but the more to examine with all care and diligence the reasons on all sides, and consequently for the Press being open to all parties, one as well as the other. So that those that are for allowing men the liberty of judging for themselves (if any such can be for regulating the press) are very unhappy in their arguments, because they all make against themselves, and out of their own mouths they are condemned.—But if men are to give up their reason to the clergy, of whatsoever denomination, there is nothing, I confess, more inconsistent with that blind obedience than the liberty of the Press, because it gives them an opportunity to see what can be said against that or any other darling notion of the priests; and then it is a great odds but that rational creatures will be governed by their own reason, and no longer endure the clergy to be lords of their faith.

7. In fine, if it be unlawful to let the Press continue free, let it furnish men with the reasons of one party as well as the other, it must be as unlawful, to examine those reasons: for if the last be a duty, the first cannot be unlawful, because it is only a means to the last in providing those reasons which men are bound to try and examine; except an implicit belief be a duty, which must necessarily bring men back again to Popery. For if it be now unlawful to examine the reasons on all sides, for fear of having other sentiments than those the clergy approve, it was no less unlawful at the time of the Reformation, which was wholly built upon this freedom of examining the opinions of the priests, and rejecting them if they judged them false. This the brave Luther did singly and by himself in defiance of the whole church, and this any man now hath the same right to do: so that it is evident the freedom or restraint of the Press depends on this single question, Whether we ought to be free, or slaves in our understandings? or, in other words, Protestants or Papists? If the first, there cannot be the least colour for leaving the conduct of religion so wholly to a few priests, that nothing shall be published about it but what they think fit, than which nothing can savour more of a popish, slavish, and prostitute compliance.—What, sir, could be more surprizing to that honourable house, whereof you are a most worthy member, than a motion to this purpose; that because making of laws is a thing of great consequence, and country gentlemen are subject to mistake, that therefore the house ought to be regulated, by appointing a licenser to judge what should be spoke in it? As ridiculous as such a motion would be, I would willingly know why it is not as unaccountable to hinder a whole nation the freedom of debating matters of religion, which (since they are not able, like their representatives, to assemble in one room) cannot well be done but by letting the Press be open to every one to publish his reasons; which ought not to be denyed, as long as every one in the nation has as much a right, not only to judge for himself in religious; as any legislators can have to judge for him in civil matters, but is as much obliged to use all possible means to inform his judgment; and consequently there is as little reason to deny liberty of debating in one case as in the other.

8. The Reformation is wholly owing to the press: For though there were several able men who, before printing was known, most vigorously opposed the growing errors of the Western Church; yet all they could do was to little or no purpose, because they had no easy and ready way to communicate their thoughts to any great number: but no sooner was the invention of printing made useful, but a poor monk who discovered at least the grosser cheats of the priesthood, was made capable of imparting those notions, which drew almost a moiety from the Romish superstition, which lost ground every where, as the Press was either more or less free. Therefore it was not strange that the Popish clergy, since they could not confound the art of printing, should endeavour to turn it to their own advantage, not only by hindering any new book from being printed, but by expunging out of old ones whatever did not serve their turn: and herein they acted consistent with their principles, which allows no liberty of examining, and consequently denies all freedom of the Press, which of all things does engage men the most to do it. But what pretence can Protestants have for restraining it, who as they owe their religion to its liberty, so they cannot hinder it without destroying that religion which has no other foundation than that of every one's having a right to examine those reasons that are for or against any opinion, in order to make a true and impartial judgment? which can never be justified, if it be unlawful to permit the Press to be open for all men to propose their reasons to one another in order to their examining them.—And it cannot be denied, but that the Protestant clergy, who are as ambitious for the most part as the Papists themselves to impose on the consciences of the peo-

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ple, have by persecution, restraint of the Press, and other such methods, given the Papists (who have scarce any thing to plead for themselves but the practice of their adversaries) too just an occasion to insult them, who are, they say, no other than a pack of hypocrites, in doing the very same things they so loudly condemn; and that it is little less than a demonstration, that the principles by which they pretend to justify their separation, are very absurd, since they are forced to act contrary to them in every point. And what was it in truth but these shameful practices, that put a stop to the Reformation, which at first, like a mighty torrent, overwhelmed all that opposed it, but has ever since gone back both in esteem and interest, and at last, if men do not change their conduct, will be quite lost? For how can it be otherwise, since that method, Protestantism and Popery being so opposite, that preserves the one, must necessarily destroy the other?

The taking a contrary method not only hindered the farther spreading of the Reformation, but was the cause that where it did prevail it was no more perfect: for though the reformers deserve just commendation for what they did, yet being bred up in so much ignorance and superstition, they could not remove those vast loads of corruption, which had been so long a gathering. But if those that succeeded them had taken the same liberty in examining theirs, as they did their predecessors opinions, it is impossible but that time must have discovered the truth, and made them agree at least in all matters of moment. But instead of this, they became as guilty of a blind obedience as the Papists; and it was a sufficient proof of any thing amongst the different sects, if Luther, Calvin, Church of England, said so: nothing more common than that 'I submit all to Mother Church,' and such like phrases; which that men should effectually do, there were penal laws enacted to force them, and no printing or preaching allowed to those that durst see farther than the first reformers, whose eyes at the best were but half open, though they saw very well for those times of darkness, and in respect of the Papists, who may justly be reckoned to be quite blind, the consequence of which was, that the differences between the several sects were widened, and they all run daily farther and farther into uncharitableness, ignorance, superstition and fanaticism.

9. Whosoever observes with what zeal our divines condemn the Popish clergy for not suffering their laity to read Protestant authors, would hardly think it possible for them to be so disingenuous as to appoint some spiritual Dragons to watch the Press, lest any thing should steal from thence that is not for their turn. Let us hear only, for they all write after the same manner, the learned Dr. Clegget, who in his Persuasive to an ingenuous Trial, p. 28, tells us, 'They that have a good cause will not fright men from considering what their adversaries say, by denouncing damnation against them, nor forbid them to read their books, but rather encourage them so to do, that they may see the difference between truth and error, reason and sophistry, with their own eyes. This is the effect of a well-grounded confidence in truth, and there is this sign of a good cause apparently discernable in the application of the clergy of this Church, of England, both to their friends and enemies, they desire the one and the other to consider impartially what is said for us as well as against us. And whatsoever guides of a party do otherwise, they give just cause to those that follow them to examine their doctrines so much the more carefully, by how much they are unwilling to have them examined. It is a bad sign when men are loth to have their opinions seen in the day, but love darkness more than light.' If the Church of England will own this to be a just character of them, they ought to be so far from endeavouring to obtain a law to restrain the Press, that they are obliged, did they apprehend any such design, to oppose it to their utmost, and to encourage their adversaries to print their sentiments, and the people to read them, that they may 'see the difference between truth and error, reason and sophistry, orthodoxy and heterodoxy, dissenting and conforming, with their own eyes.' Taking a contrary method only affords a new argument for the liberty of the Press, because they give their followers a just cause to 'examine their doctrines so much the more carefully, by how much more unwilling they are to have them examined. It is a bad sign,' &c. In a word, did the Protestant guides act as such, instead of frighting men from considering what their adversaries say, by denouncing damnation against them, they would tell their auditors the great sin of being biassed by them in the choice of their opinions, and that the more important any controversy is, the more reason there is for the liberty of the Press, that they may examine with all the diligence imaginable the tenets of their adversaries as well as of their guides; and that the more they heard the one party, the more they should read the other; and that if they should fall into any error by so doing, they would not be accountable for it. For though there is not (as the Papists vainly imagine) such a guide as would infallibly lead every man into every truth, yet that every one's reason as a guide is infallible, because God that designs that all men, if it be not their own fault, should be for ever happy, has given them no other guide but their reason to bring them to that happiness; and therefore as sure as God himself is infallible, the following that guide must bring them to that happy state which God designed the following it should bring them to. And on the contrary, that God, who is the 'rewarder of those only that diligently seek him,' would condemn them as unprofitable servants, who instead of using their talents to find out his will, did abandon themselves to the uncertain chance of education and the religion in fashion, which varies with every age and every country. As thus they ought to preach to the people, so they should as little scruple to tell the magistrate that by

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permitting an intire liberty he did nothing but his duty; but by a restraint of the Press he did not only shew himself guilty of a blind obedience, but did endeavour to make a whole nation so, and was to answer not only for all the errors and other ill consequences himself caused by a restraint, but likewise of abetting all other magistrates that think themselves in the right in doing the like: and that though he should chance to be in the right himself, yet he could not know how many he was the cause of being all their lives in the wrong, who might be so only, because not having liberty to publish the reasons they had to embrace such opinions, they could not meet with any that could give them satisfaction; and, in truth, writing against any opinion where men have not the liberty to shew the reasons why they hold it, is but writing at random, because men's reasons cannot be confuted till they are known. Such arguments as these, a Protestant clergy, that is true to their own principles, ought to use both to the prince and people, and not prevaricate with God and man, and talk backward and forward just as it serves their turns. 'If Baal be God, serve him; if not, serve the Lord.'

10. I can see no reason why they that are for tying men to that interpretation of Scripture a licenser shall approve, and therefore put it in his power to hinder all others from being published, can with any justice condemn the Popish Clergy for not licensing the bible itself for the laity to read it. For if the bible is to be translated into the vulgar tongue, to what end is it, but that the people by reading it may judge what is their duty in the most obscure and difficult places? Ought they not then to see the different translations and explications? If they are to be denied this, lest they apprehend it in a sense different from that of the licenser and his party, the same reason will restrain the people from promiscuously reading the bible, because they may, and frequently do apprehend it in such a sense as their guides do not approve; and if that be a crime, all the means that are necessary to hinder it must be a duty; and therefore if it cannot be prevented without hindering the laity from reading the bible, it is a crime to suffer them to read it.

11. This restraint gives a great handle to those that believe only natural religion, to argue against the Christian; for, say they, it is no small presumption that the clergy themselves are conscious of the falseness of their religion, because they dare not suffer it to undergo a fair trial, but do what they can to stifle all the reasons that can be urged against it. The clergy, say they, are so learned, and withal so numerous, that amongst them they could not fail to expose and confound any thing that is writ against them, had they but truth on their side, which they know is next to the Almighty, strong, and therefore needs no licensing tricks, or stratagems, to make it victorious: these are the mean shifts that error is forced to use against its power. These men farther add, that if Christ and his apostles obliged men to try all things, how can they that pretend to be his successors (did they believe the Scriptures) hinder a fair trial of any thing relating to religion? And can there be a fair trial when all parties have not the liberty to publish their reasons, that the people may compare and examine them by their common notions, those tests and standards of all truths? Has the Protestant Religion a fair trial in Italy, where nothing can be heard in its defence? Thus it is that some men expose our religion on the one hand to the insults of unbelievers, and on the other of Papists; which can never be avoided but by granting to all sects an entire liberty of the Press. All other methods equally serve to promote error as truth, and consequently can never be the way that God ordained to distinguish the one from the other.

12. It may be objected, that by such a latitude as this people may be seduced into false religions, or into heresies and schisms. None can profess a religion but either, because upon examination he judges it to be true, or, that some by-interest makes him do so contrary to his judgment, or else, because he takes it on trust without examining it. As to the first, if two persons profess different religions, one the true, the other a false one, yet if they have been equally sincere in their examination, they are equally in the way to heaven; because in following their reason, they both have done what God requires: so two men that equally act against their judgment, the one professing the truth, the other not, are alike guilty: so also are they who equally take their religion on trust; and such perverse holding of a religion, whether true or false, is heresy, as the other is hypocrisy: and according as men are more or less partial in examining, they are more or less heretical. So that it is not what a man professeth, but how, that justifies or condemns him before God. And there would be few, either heretics or hypocrites, were there not bribes annexed to some, and awes to other religious tenets; for then men would not be afraid to examine those for fear of finding them false, nor these lest they should be true, nor to own or disown either, according as they judge them, true or false. And an entire liberty of the Press would by degrees establish religious truth, because that is supported by better, plainer, and more cogent proofs than any false opinions are; which are either mischievous or burdensome, or at the least useless, whilst the other by its excellency and usefulness carries evidence and conviction with it.

As to schisms, they are caused by men's imposing their own interpretations, instead of the express words of God, as necessary terms of communion; which makes Protestant imposers not only schismatics but heretics, because having laid down as a fundamental of their religion, that every one is to interpret Scripture for himself, they most obstinately and perversely (not to say knowingly) act against that fundamental.

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13. The most material objection against the liberty of the Press is, that without licensers, atheism, profaneness, and immorality, as well as sedition and treason, may be published. The Commonwealth has the same reason to punish men for those as for these, because they are all alike pernicious to human societies. And it is all the reason in the world that whoever asserts any such notions, whether in discourse, or from the pulpit or press, should be severely punished. But this can be no more a reason to appoint licensers for the one than for the other: nor would it hinder the printing things contrary to law, for none will be so mad as to desire an *Imprimatur* for them: so that such pamphlets, whether there are or are not licensers, will come out wholly by stealth; and it is evident there were more of them printed when the law for regulating the Press was in being, than since. To make the laws against such things severer, and to oblige either the printer or bookseller to set his name to all books whatever, will take away all pretence for appointing licensers, and will be the most effectual way to prevent publishing such books.—But before I leave this head, I cannot but remark that they are no way guilty of profaneness who out of conscience (to which profane and atheistical persons have no pretence) worship God after a mistaken manner, because all the honour men are capable of giving an almighty and allknowing being, consists in the intention and design; and therefore to punish those, who out of a holy intention and pious design worship God after that manner they judge acceptable to his will, as profane persons or blasphemers, is the greatest crime next to real blasphemy, because it is punishing men for no other reason than expressing their zeal for the honour of God, which they can no otherwise do than by worshipping him as their reason dictates, which they must either do, or not worship him at all, or else but with a mock worship. And they that by force are made to break the ties of conscience, though ever so erroneous, cannot be good subjects neither to God nor the king: so that profaneness and immorality cannot be destroyed but by all sects doing as they would be done unto; which must establish an entire and universal liberty, since they have all the same right to judge for themselves, and are equally obliged to act according to that judgment, and to communicate to others what they judge to be true: which perhaps was the reason that the house of commons so unanimously threw out the bill for restraining the Press, immediately before their addressing the king against profaneness and immorality. But to return.—If it be once thought unlawful to have nothing printed but of the side of the Church in fashion, the same reason will at least as strongly hold against any thing being preached but of that side; because if any thing is printed against that Church, there are ten thousand clergy (whom one would think a sufficient guard for truth) to expose its folly and weakness, but it is not so easy for them to know, and consequently to apply an antidote to what is preached against them; wherefore they who are not for destroying that just and righteous law that allows liberty of conscience, ought to be very careful of the freedom of the Press, as the only means to guard and defend the other; and both being built on the same foundation, cannot (as has been already proved) be destroyed but by striking at the foundation of the Protestant religion. And, therefore it cannot be supposed that the chief support of it, the honourable house of commons, will ever consent to the one or the other, especially considering how much the Popish interest increaseth, and what advantage of late it has got in France, Germany, and Savoy. And if the Popish princes (as it is supposed) have entered into a confederacy among themselves to extirpate the Protestant cause, ought not all Protestants (and all that are not for a blind obedience deserve that name, that being the essential difference between it and Popery) instead of using restraint on one another, to unite against the common enemy?—Besides, let it be considered, it is not certain we shall be always blest with the government of a prince so entirely a Protestant as our great and glorious deliverer. And if the Papists should pervert one, and by that means get the publishing their doctrines without contradiction, they might by degrees confound the Protestant religion, so much weakened already by its professors acting so inconsistently with their own principles. But were that scandal removed, by allowing as entire a liberty as the Protestant principles require, there could be no danger of the prevailing of the Popish, or any other superstition. And it is remarkable, that nothing has been writ in behalf of Popery since the expiration of the act for regulating the Press, so little is liberty a friend to that superstition.

14. But if, after all, there must be some appointed to determine the fate of religious books, the clergy, of all men, ought not to be trusted with this employ, because they (not content with the right they have from the society of exercising the ecclesiastical function) do claim a power and government distinct and independent of it, which they pretend is founded in Scripture; and consequently they have no way, as a clergy, of gaining any dominion, power, or riches, more than what the society will give them, but by wresting the holy writ: and if, besides the pulpits, where they may preach what gainful doctrines they please without contradiction, they do so far engross the Press, as to hinder any thing from being printed but what favours their designs; what may not such a body of men (well versed in all the arts of persuasion) by their frequent opportunities to display them, impose on the too credulous people, especially when all the ways to disabuse them are stopt up?—And if the clergy in the more early and primitive times, perhaps ever since they were forbid to lord it over the heritage of God, have made it their business to pervert religion to advance their own power; what rea-

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son is there to imagine that they would not do the same in these later and degenerate ages? How, I pray, did the clergy, who at first subsisted by the charity of the people, arrive to such immense grandeur and prodigious riches, but by a constant confederacy from time to time, carried on at the expence of religion? which, as their own historians shew, was proportionably corrupted, as they increased in power and riches, the one being made a step to the other: and it is as evident where they are now most potent, there religion is most perverted, and the people most enslaved.—The chief way they effected this, was by persuading the people to a blind obedience, the consequence of which was, that they must take the clergy's own word for all the powers they thought fit to say the Scripture had given them, and to submit to whatever they would determine in their own cause and for their own interest. And there never was a synod, whether orthodox or not, but were for imposing on the laity, not only by excommunicating, anathematizing, and damning, but by making the magistrate use violence on all that would not, contrary to their consciences, comply with their determinations; by which means they at last arrived to such an excess of power over the magistrates as well as the people, that one was no better than their hangman, and the other than their slaves. And have not the Protestant clergy, from whom one ought to expect better things, taken the same method to make people blindly submit to their determinations? Nay, have they not outdone the Popish clergy, in wresting the holy writ to destroy the English constitution, and enslave the nation, and in preaching up the doctrine of absolute obedience, than which nothing can be more inconsistent with the goodness of God, and the happiness of human societies, as knowing the only way to secure tyranny in the church was to get it established in the state? So that if the Protestant clergy do not keep the people in as vile a subjection as the Popish do, it is not owing to their good will; and therefore none that have any value for religion, or any kindness for their liberties, will trust those that lie under such temptation to pervert the Scripture, with the sole licensing books of religion. As we pray not to be led into temptation, so we should avoid leading others into it, especially such as in all probability they cannot withstand.

15. The discovery of printing seems to have been designed by providence to free men from that tyranny of the clergy they then groaned under. And shall that which was intended by divine goodness to deliver all from sacerdotal slavery, be made the means of bringing it on again? And if our ancestors could not defend themselves from more than Egyptian bondage, which the pulpits brought on them, without the assistance of the Press, it is scarce possible that we should be able to secure our liberties against both, when by the help of the latter the clergy have got better abilities, as well as opportunities, to impose on the understandings of the people; and when men are once enslaved in their understandings, which of all things ought to be most free, it is scarce possible to preserve any other liberty.—The trusting not only the pulpits but the Press in the hands of the clergy, is causing the 'blind to lead the blind,' because the generality of them are more likely to be guilty of a blind obedience than the laity, since they are obliged, as they value their subsistence, right or wrong, to assert those religious tenets they find established by law; the truth of which they cannot any more be presumed to have impartially examined, than a mercenary soldier the justice of the cause he is engaged in; being sent by their friends to the Universities, not to try the established religion, whether it is right or wrong, but to profess it as a trade they are to earn their bread by: and lest they should examine it, they are, even before they are capable, shackled with early oaths and subscriptions. Which is the reason that the priests are wondrous hot in every country for the opinions to which their preferments are annexed; in one place fierce Calvinists, in another violent Lutherans, in a third bigotted Papists; which could not so universally happen, did they in the least examine those opinions they are engaged to profess. And therefore there can be no reason to trust the Press in the hands of men so biassed and prejudiced, who cannot but be highly affronted to see the laity do, what they durst not, judge for themselves, and not be blindly guided by them, who, poor men, are not trusted to guide themselves. Yet for all this extraordinary precaution to keep the clergy right and tight, and the great disproportion of numbers between the laity and them, it is evident that almost all the errors and wrong notions in religion have had their rise and chief support from them. So that upon the whole, if the Press should be trusted with any, it ought to be with laymen, who have no powers, prerogatives, or privileges to gain by perverting of Scripture, since they pretend to none but what they receive from the society. Though I cannot but presume that our legislators, were there no other reason, yet out of respect to the clergy, would not enact such a law as supposeth the greatest and most learned of them not fit to be trusted with the printing but a half-sheet in religion without consent of a lay licenser, who is to have an arbitrary power over their works. And there is no doubt but the clergy would highly resent such a law; though I cannot see but the appointing licensers, whether of the laity or clergy, equally reflects on their body, because it equally supposeth they are unfit to be trusted. But if they are content with that disgrace, it must be because either they cannot defend themselves against their adversaries, or that they have a mind to give themselves up to laziness and idleness, and not trouble themselves with the laborious work of controversial divinity. But I shall say no more on this point, having already sufficiently shewed how destructive the restraining the Press is to

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religion, which it cannot be without being in general prejudicial to civil societies, for whose good it was instituted, but especially when it is perverted on purpose to enslave them: and there never was a nation which lost their religious rights that could long maintain their civil ones, for priestcraft and slavery go hand in hand. Therefore I shall be the shorter on what I have to say on a civil account, especially considering that most of those reasons that shew how destructive a restraint of the Press is to religious, will equally prove it to be so in civil affairs.

16. The greatest enjoyment that rational and sociable creatures are capable of, is to employ their thoughts on what subject they please, and to communicate them to one another as freely as they think them; and herein consists the dignity and freedom of human nature, without which no other liberty can be secure: for what is it that enables a few tyrants to keep almost all mankind in slavery, but their narrow and wrong notions of government? which is owing to the discouragement they lie under of mutually communicating, and consequently of employing their thoughts on political matters; which did they do, it is impossible that the bulk of mankind should have suffered themselves to be enslaved from generation to generation. But the arts of state, in most countries, being to enslave the people, or to keep them in slavery, it became a crime to talk, much more to write, about political matters: and ever since printing has been invented, there have been in most places state-licensers, to hinder men from freely writing about government; for which there can be no other reason, but to prevent the defects of either the government, or the management of it, from being discovered and amended.

17. Fame, reputation, and honour, as they are the greatest incentives to all good and virtuous actions, so they as much terrify men from committing base and unworthy ones. And it cannot be reasonably presumed, considering the general corruption of mankind, but that the rich and powerful would frequently oppress those beneath them, were they not afraid of losing their reputation, and exposing themselves either to the contempt or hatred of the people: for this law of reputation, if I may so call it, influences men more than all other laws whatever, but if there were a licenser of the Press, he might be prevailed on not only to hinder the injured from appealing to the people by publishing their grievances, but to license such stories only as mercenary scribblers would write to justify the oppressors, and to condemn the opprest: which, as it would be the greatest encouragement for those men that are above the ordinary remedies of law to crush whom they please, so it would be the highest injustice to deny the injured the last satisfaction of justifying their innocence to the world, which would be sure to pass a just censure on the oppressors; and this they would the more dread, because if once they lose their credit with the people, they will be very unfit instruments for a court to use. Therefore it is no wonder if all that make an ill use of their power, especially those who have cheated the government as well as abused the people, do endeavour with all their might to have the Press regulated, lest their crimes being exposed in print, may not only render them odious to the people, but to the government. In a word, all sorts of men whose interest it is not to have their actions exposed to the public, which I am afraid are no small number, will be for restraining the Press, and perhaps will add iniquity to iniquity, by pretending they do it out of conscience to suppress immorality and profaneness.

18. But this is not the worst that may happen, because the Press may be so managed, as to become a most powerful engine to overturn and subvert the very constitution; for should a magistrate arise with arbitrary designs in his head, no papers that plead the rights and just privileges of the people, would be stamped with an *Imprimatur*: Then the Press would be employed only to extend the prerogative beyond all bounds, and to extol the promoters of arbitrary power as the chief patriots of their country, and to expose and traduce those that were really so; which would not only be the greatest discouragement to all brave and virtuous actions, but be apt to make the people mistake their friends, when they had not the liberty to publish a vindication of their principles or actions, for their enemies. In a word, if the pulpits and Westminster-hall (as we have lately seen it) should chime in with an arbitrary court, what can warn the people of their danger, except the Press? But if that too be wholly against them, they may easily be so blinded as not to see the chains that are preparing for them, till they are fettered beyond all power of redemption; for there can never be wanting a thousand plausible stories, and seemingly fair pretences to amuse and divert them from perceiving their real danger. And if we look into the history of Europe, we shall find more nations wheedled than forced out of their liberty; though force afterward was necessary to maintain what was got at first by fraud.

19. It is so far from being impossible, that a people may be thus imposed on to their utter ruin; that it is probable another generation seeing nothing but the royal prerogative highly magnified, may be bred up with the opinion of being born slaves. And were we not almost brought to that pass in the late reigns, when nothing came out with allowance, but what was to justify such opinions? and if some good men, especially about the time of the Revolution, had not had the courage privately to print some treatises, not to mention the prince of Orange's third Declaration, to undeceive the people, and to make them see the fatal consequences of those doctrines, which by the restraint of the Press passed for divine and sacred truths, the nation had tamely submitted to the yoke. And as it cannot be denied but that

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those papers in a great measure opened our eyes, so it may justly be hoped that none who saw the miserable condition that the act for regulating the Press would have brought us into, will be instrumental in re-establishing that law. No, those men sure who so much exclaimed against it in the late reigns, will take all care imaginable to prevent it now. But if these very men, who may justly be said to be written into their places, and owe their preferments to the freedom of examining those slavish doctrines of the former reigns; if these men, I say, can so far forget themselves as to be for a law which till themselves were uppermost they thought tended only to enslave us, there cannot be, I think, a greater argument for all others to oppose it. We are, God be thanked, blest with the government of the best of kings, who as he hazarded every thing to rescue our liberties when in the extremest danger, so he places the glory of his reign in preserving them entire, and transmitting them so to posterity. And therefore none that love his glory can be for restraining the Press, which now as it can serve to no other end than to create jealousies in the people, who cannot forget what former reigns designed by it, so it may hereafter hazard all our liberties. Under a good king we may justly expect such laws as will not expose us to, but secure us from the oppressions of an ill one. The best things when perverted become the very worst; as religion itself, when it degenerates into superstition, so printing, which in itself is no small advantage to mankind, when it is abused, may be of most fatal consequence. Secure but the liberty of the Press, and that will, in all probability, secure all other liberty; but if that once falls into the hands of ill-designing men, nothing that we hold dear or precious is safe. And experience manifests, that wheresoever that of the Press is denied, there no other is preserved. Most countries in Europe maintained their freedom tolerably well till the invention of printing; but when that was suffered to speak nothing but court language, people were by degrees gulled and cheated of their liberty. Had not the late king tacked popery to slavery, he might with the greatest ease imaginable have enslaved us; and methinks the danger we have so miraculously escaped, should fright us from ever enacting any of those methods into a law that so much contributed to that danger.

20. That which alone would engage me, were I a senator, to oppose the restraint of the Press, is, that a parliament is to take cognizance of all sorts of things, which some men of gentlemen-like education may not have much considered; and therefore the perusing what those without doors, who have made such things their business, have writ, may be none of the worst means of informing themselves; but a restraint of the Press may in a great measure hinder them from receiving this satisfaction, because licensers might be prevailed on to suffer but one side to publish their sentiments even in matters of the greatest consequence. I have met with some members who have frankly owned that the incomparable Argument against the Standing Army gave them great insight into that grand point, which, said they, had not the Press been open, would never have appeared, nor any thing on that side, but a number of pamphlets on the other, which, with the noise of self-interested persons, would in all probability have carried things quite otherwise. And seeing they could not foresee how frequently such things might happen, this alone, said they, was enough to convince them of the necessity of the liberty of the Press, since they could not be too secure of that inestimable jewel liberty, which, if once lost, was scarce ever to be recovered, especially if seized by a domestic power.

21. I doubt not but there are several well-meaning men for regulating the Press; who, did they consider how subject all things are to change, could not but be apprehensive that this engine of their own contriving might be turned upon themselves, and made to ruin those very designs they thought to promote by it. For the Press (as a witty gentleman observes) is like a jackanapes, he who has him in his hands may make him bite whom he pleases, and therefore it is the safest way to keep their jackanapes in their own hands. And it cannot but shew a great deal of hardiness to make such a law as may produce very fatal consequences even to the makers themselves, who will then deserve no pity, since they are scourged with rods of their own providing: and it is the more probable this may happen so hereafter, since even at present such a law has but an untoward aspect upon most parties; for one party, though he is pleased with it in religious, yet dislikes it in civil matters; another thinks the contrary to be his interest; a third is satisfied with having such or such sects restrained from printing, but would be glad that others had that liberty; a fourth, who cares not how all the sectaries are dealt with, is yet afraid, that if the Press be in the hands of moderate churchmen, none will be suffered to write any more letters to a convocation man, or a *Manicipium Ecclesiasticum*, or such like books; a fifth is afraid lest this power should get into the hands of the rigid ones, for then the others will be run down as Trimmers, Latitudinarians, and what not. The same may be said with respect to other religious opinions, about which men of the same church are divided; and the like may as well be observed in civil matters, but I leave every one to make that remark for himself: so that if all parties cast up their account, there are very few of them but will find a restraint of the Press to be against even their present interest.

22. I might add a great number of other reasons, because as many things as are worth knowing, so many arguments there are for the liberty of the Press. What can be more useful than history, and the knowledge of our ancestors' actions? a faithful account of which can scarce be expected in a reign that has a design to disguise truth, and to keep us in ignorance of

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those noble and generous notions our ancestors had of liberty, and how they asserted theirs upon all occasions. As for what concerns the present time I shall only say, that for my own part I should be glad, especially when at a distance from London (and I suppose other country gentlemen may be of the same mind) to divert myself with some other newspapers besides the Gazette, which would hardly be permitted if the Press were regulated. As for books of philosophy, and of other arts and sciences, I can see no reason why there should be any restraint on them, or why the licensing them should be intrusted with the clergy, as by the late act, except it be to hinder such books from being printed as tend most to inform mens judgment, and make them reason clearly, things very dangerous to a blind implicit obedience. Besides, an excellent discovery in nature may be hindered from being published, on pretence that it is inconsistent with religion: for the time has been when asserting the Antipodes was no less than heresy, and the motion of the earth a crime worthy the inquisition; and with as little reason (not to mention Dr. Burnet's ingenious tracts) has the most useful book that was ever written in philosophy, the Essay of Human Understanding, been condemned as inconsistent with the articles of the Christian religion. As for physic, though the licensing books therein were wholly trusted with some of the college, the most useful piece in that science, either because the licensers were engaged in another method of practice, or because it may take from their advantage, by prescribing a cheaper and easier way of cure, or out of envy, or a thousand other reasons, might be hindered from seeing the light, to the great detriment not only of the present, but future ages. As to law, I shall only say, if there are any abuses crept into it, the likeliest way to have them reformed, is not by restraining the press.

23. Were licensers unbiassed, uncorrupt, and infallible, there might be good reason to trust them with an arbitrary power to pass what sentences they pleased on books; but if we are to judge of the future by the past, they are almost as likely to be one as the other. Men of sense (and others ought not to be trusted with it) without being resolved to make the most of it, will not care to be condemned to the drudgery of reading all the trash that comes to be printed; nothing but necessity will make such persons submit to it, and that necessity will make them less able to withstand temptation. So that the appointing licensers will be as bad as laying a tax on learning, since by delaying to look over books, especially those that require haste to be printed, and by other tricks (for there are mysteries in all trades) they may make people pay what they please for their allowance.

24. But this is not the worst, it will be a great hinderance to the promoting of knowledge and truth, by discouraging the ablest men from writing: for such persons, especially after having once had the liberty of publishing their own thoughts, will not be content to have their works lie at the mercy of an ignorant, or at the best of an unleisured licenser, who upon a cursory view may either condemn the whole to perpetual darkness, or strike out what he pleaseth, perhaps the most material things. And though a living author may subject himself to this, yet none will be content that the labours of a deceased friend should be so served: so that the works of such a person, though ever so famous in his life-time, shall be lost to all posterity. Besides, is it not intolerable, that every time a man has a mind to make any alteration or addition, between the licensing of the copy and the printing it off, he must as often hunt after the same licenser to obtain his leave, for the printer could not go beyond his licensed copy, when in the mean time the Press, to his no small damage, must stand still?

In short, though there might seem to be some reason to condemn a person that upon a fair trial had been found guilty of writing immoral things, or against the government, to the punishment of never writing again but under the authority of an examiner; yet what reason can there be that those who never offended, nay that the whole commonwealth of learning should be subject to so severe usage, which too is the way to have none but fools and blockheads plague the world with their impertinence, and make an *Imprimatur* (as it did formerly) signify no more than that such a book is foolish enough to be printed? It is objected, That without licensers any one may reflect on whom he has a mind to, so that most people shall be sensible whom he means, though he mention but two letters of his name, or useth some other description, by which means he is out of the reach of the law. This may be an argument for the forbidding all printing, but none for appointing licensers; for it is much more reasonable for all to have the liberty to vindicate themselves the same way they chance to be aspersed, than to let the licenser's party abuse all others, and the Press not be open for them to justify themselves. But if any one reflects upon another after this manner, let him make appear whom it is he means, or else be esteemed in law to intend that person that takes it to himself. This I think is all that can be objected as to civil matters, except what relates to sedition and treason, for an answer to which I refer the reader to sect. 13.—I have no more to add, but that my greatest ambition, next to serving the public (which here I have endeavoured to do, without so much as once thinking how it may affect me in my own private concerns) is to approve myself to be, sir, your most faithful and devoted humble servant.

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N° XIV.

CONSIDERATIONS upon the Choice of a SPEAKER of the House of Commons in the approaching Session. Printed in the Year 1698.*

EVERY man who has at any time sat in the house of commons, must be sensible, that the Choice of a Speaker is a matter of the greatest importance with relation to the freedom of that house: and if liberty be there destroyed in the root, it cannot survive in the branches. For this reason, as is well observed in the king's Declaration, when prince of Orange, the evil counsellors of the late reign thought the surest method to inslave us was, by undermining the Liberty of Parliaments: And one step which such evil counsellors have always made in that execrable attempt, has been by Places, Bribes and Pensions, to take off the Speaker, well knowing that the freedom of that house depends in a great measure upon their Speaker, as our laws and rights depend upon that house. —A man may easily foresee, that whenever slavery shall be intirely fixed in England, as it is among almost all our neighbours, it must be done by a corrupted parliament establishing a Standing Army: by which means this kingdom will feel the effects of tyranny from that place which ought to be the source of liberty.—Upon this foundation my lord Burleigh grounded his maxim, 'That England can never be thoroughly ruined but by a parliament.' And I am sure a parliament can never be more thoroughly fitted to ruin England, than when by the influence of many members bribed by places of profit, and pensions, a Speaker shall in some future reign be put into the chair, to whom those that are his friends can allow no other character than confidence and dexterity; and that character, those who shall then oppose him, will not deny to him.—Such a one may be granted to be an able man; but those abilities in that place the nation may justly dread.

Can it with any colour of reason or prudence be said, 'That there is no danger, let the disposition and obligations of the Speaker be what they will: he is but a single man; and besides does not determine questions?' It is true, the ablest general alone, and without troops, is insignificant: but when regulated and well paid forces have a bold and skilful leader at their head, they must conquer; especially if those they encounter be an undisciplined militia just brought out of their several counties.—Mankind can judge of few things otherwise than by outward appearances, which are often deceitful. This is the cause, and may be also an excuse, if former parliaments were disappointed in their Speaker, whose frailty, after he was chosen, may have been overcome by the gifts and prevailing courtship of the ministers of state. But surely the majority of a house of commons will never chuse one to be their Speaker, whom they find, if the expression may be pardoned, already debauched, and once rejected on the like occasion.—This as it will be the first step, so is it of the highest consequence; for an error here, like one in war, can never be retrieved: And undoubtedly it will be thought a very ill omen of what may be expected from this house of commons, if they should so unfortunately stumble at the threshold.—It has been criminal formerly in a Speaker of the house of commons to go to court: but the duty of the office of a lord of the treasury must bring him there, and under the greatest temptation of compliance to every thing that is demanded. Nor will the ill effect this may have upon the liberty of parliaments stop here; for it is most certain that such things as are either allowed or connived at under the reigns of good princes, will be made precedents under the bad.

Freedom of speech, and other essential orders of the house may probably be endangered by one who has declared he knows no order but the majority: and if he ventured to speak so plainly, whilst we may presume he was aiming at that honour which some would confer upon him, how will he tyrannize with a majority that he will either find or bring into the interest of the court, when he is possessed of the Speaker's chair.—There are some public trusts, that in their nature are inconsistent with one another, and ought never to be joined in the same person, being designed to be a check upon each other: and a good man can neither with decency nor honesty unite such different trusts in himself. But neither decency nor honesty will bound the ambition of some men. —Suppose there has been the greatest misapplication of the public revenues at a time when the kingdom is under the extremest necessity; is it probable that a Speaker will be impartial, or any way assistant to the house in an inquiry after such mismanagement, who was a lord of the treasury during the time of it?—Suppose a gentleman was 10,000 *l.* debtor to the crown upon the Revolution, and in a particular clause of the Act of Indemnity procured from the court a release of that debt; can it be expected, that in enquiries how vast sums have been embezzled since that time, the grand inquest of the nation will be able to make any progress with such a foreman?—Suppose there is a debt growing every day upon the nation by seamen not discharged, while the money given for

* State Tracts in the reign of William 3, vol. ii. p. 651.

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necessary a purpose has been disposed of for keeping up an army that should have been disbanded pursuant to the determination of the last parliament upon the most mature and solemn debates; must not the house expect interruptions in bringing on that matter, difficulties in wording, and delays in putting the question, from one who in his station at court may be perhaps charged with advising the keeping up of the army, and in the last parliament was the best and most artificial advocate against disbanding it at all?—These and many other things of the highest importance to ourselves and our posterity, will fall under the consideration of the parliament in the ensuing session; it being evident that this time of peace is the most proper, if not the only season for rectifying miscarriages; the examination and punishment of which, it may be alledged, was prudent to adjourn during the war.—If a great officer be made Speaker, it is the most natural thing in the world to believe he will use the same arts to keep his office as he did to get it: And if it be considered how several members of our late parliaments got into the most advantageous places of profit, whom the court would not have seen, nor the country felt, had they not been first members, it must be granted that they were advanced not by serving the nation, but the court.—Let not any man think this distinction of court and country party in the house of commons to be groundless or ill meant: for if ever a parliament was without such a distinction, it was when a court was without such ministers; who, instead of serving the government, serve themselves upon it, at the expence of their master's honour, and by impoverishing their country: who, instead of being qualified to render his majesty great, and the people happy, seem only to be fitted to bring the king, if it were possible, into disesteem, and to make the kingdom miserable. And whereas the honour, safety and strength of the king depend upon having no other interest than that of his people, it is his majesty's misfortune to be represented by the actions of such officers, as if his and the people's interest were not only divided, but inconsistent. If such as these are leading men in a house of commons, they give just reason to all that love England, and have upon principles of liberty freely exposed their lives and estates for the present government, to make this necessary distinction, lest some men should be induced to believe that kingship itself is insupportable, and others that parliaments are a burden.—It is this distinction must preserve the honour of our ancient constitution of government, till it may flourish under the influence of a parliament, in which none or few who have gainful offices shall be members of the house of commons. But a bill to that purpose is not to be expected, when a great officer is Speaker.

The executive power ought not to be lodged in that house, because it would deprive the kingdom of that which is the noblest and most useful work of their representatives, 'the calling ill ministers to account,' and the preserving a steady administration in the subordinate officers of the government.—But in a house of commons abounding with Officers, if any one of them be attacked, it alarms the whole fraternity, and they all engage to bring him off, though it be by the scandalous way of putting the question for Candles, and carrying it in the negative. This was the case of the Admiralty last parliament, and may be of the Treasury this session, if fortune prove so propitious, that one of their number be made Speaker. This point gained, the next will probably be to establish the army, and then to suspend or repeal the Triennial Act.—Nothing can equal such a Choice, unless we could suppose the the house of commons should fix upon some old Prostitute of the exploded Pensioned Parliament in Charles the 2's reign, who has from that time been tricking in the house in so shameful a manner, that the several periods of his life may be marked out by the bargains he has made there, when the court has come up to his price.—His corruption in that station has been as notorious as his ability to do mischief; for both were extraordinary. — The Speaker's Chair may upon some accounts be convenient to such a one at this time: but I presume the house will have as little regard to his conveniency, as he has had, and will have to the liberties of his country. In a word, if it be expected that Misdemeanors be inquired into, beneficial laws made, and those which we already possess, transmitted to our posterity, it must be either prodigious folly, or an unaccountable fate, if such a man or a lord of the Treasury, be chosen Speaker of this house of commons.

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No XV.

Considerations on the Nature of Parliaments, and our present Elections. Published in the Year 1698.*

The Restoration and Revolution the Work of the People of England.—The Corruption of the Age.—A Free House of Commons, how advantageous.—The Advantages of a good House of Commons.—King Ch. II. Practices on the Parliament.—Reformation desired now or never.—What is our Expectation from the Parliament.

IT is amazing that a people so zealous for their liberties, should neglect the natural, safe, and certain way of securing them, when they have often had recourse to the most violent remedies, and have run the utmost hazards to secure their property. This is the only country in Europe that enjoys any freedom under a king, and it mortifies any thinking man when he considers in how many successive reigns our constitution has been aimed at, how precariously we hold it now, and how often the opportunities of a secure establishment have been trifled away, when obtained by the boldest attempts that were made successful by an apparent providence.

As the Restoration of king Charles 2, so the last Revolution was the work of the people of England; nothing could have brought it about in so miraculous a manner, but the weight of the whole nation in opposition to the conspirators against our constitution. And if the succeeding parliaments (which are called the Representatives of the Nation) have not established by proper laws those liberties, and that government for which the people drew their swords, it must be concluded, those assemblies did not truly represent that people.—Whether they have done so ought well to be considered; and if they have not, to find where the fault lay, were a useful discovery: and it is highly necessary that the boroughs of England should be well apprised of the present circumstances of affairs, and of the sentiments of mankind at this time; that by a proper and discreet choice they may secure at once the happiness of their country, and their own reputation, which are both in danger.—The opinion of the universal corruption of this age cannot be concealed; it is made evident by those that elect, by those that are elected; buying elections, and selling of votes, are consequences. And if this should appear to be the present case, such a house of commons cannot pass for a representative of the people, but a representative of a few dissolute, mercenary persons, possest of voices in the boroughs of England. The consequences of such thoughts they will do well to consider: which must induce all true Englishmen (at a proper time) to seek other methods of being better represented.

When I speak of a natural, safe and certain way of preserving the liberties of England, I mean the securing a free unengaged house of commons, consisting of the rich, honest and able men of the kingdom. When the balance of the government went out of the hands of the nobility and the churchmen, if a sufficient provision had been made for this, how happy had we been, and what mischiefs and dangers had been prevented to this nation? From Henry the 7th to this time, our annals had contained the names of princes on the throne fit to have been the predecessors to our glorious king: but true it is, he must have lost his title of Deliverer, as we had saved the price of our redemption; for our constitution would have preserved us from those dangers and violences from which he came to free us, and we had not had a whole generation conspiring for a hundred years together (though in different ways) against our established government, when sworn to support it. If our new barrier had been well fortified, and if our representative of the people had been contrived to answer indeed to the name, all our kings had been queen Elizabeths. But our elections in inconsiderable boroughs, and our members being qualified to serve two masters, were such mistakes in our fundamentals, that as they have produced our past misfortunes, they must produce the like under bad princes, or evil projecting ministers.

A house of commons chosen truly by the people, incapable of pension and place; and the king and kingdom had been incapable of misfortune: they had been out of the reach of all human power, and, with due submission, above fate; since such a government would have made us the proper objects of divine protection, and not only have secured our greatness and glory, but our religion and morals too, which I fear are all going together.—In such circumstances we should have had no cause to fear the Scottish cunning of James 1. No king of Scotland could have made a Scots parliament of such an English assembly. Such a monster as Buckingham, and upon so monstrous a foot of favor, could never have grown to such an exorbitant size under such a constitution: he had soon been prevented in the apparent prostitution of our wealth, in his apparent neglect of the honour and interest of the kingdom, in his apparent and treacherous dealings with the French, and the public enemies: his iniquities had never been screened by a party; in a word, he had not fallen a victim to a private hand.

* State Tracts in the Reign of William 3, vol. ii. p. 615.

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Under such a government his pious son had pursued the like measures in vain: his French wife, his scandalous favourites, his unlaudable bishops, his own insolent and unconstant temper could never have brought him to the block: all the blood shed to no purpose in those wars had been saved; he could never have lost his life, nor his kingdoms, he would only have lost his title of Martyr.—Under so just a balance of power, as the sons would have avoided the ill consequences of their father's fate, so would they probably have avoided all the French infection which they received in body and mind: they had not received (sons of the Protestant Martyr) the French religion, and above all contagions a French inclination, the most fatal poison that could enter the blood of an English king.—Such a government would soon have discovered the Protestant mask Charles 2 only pulled off at his death: such parliamentary constitution would not have suffered the avowed and open apostacy of the next heir; the Bill of Exclusion had then past, and had prevented the setting up and pulling down the late king with such hazard and expence to the nation. Such an establishment would have prevented the late damnable invented project of corrupting parliaments (which I must mention in this place, because it began at this time) that cursed project, which defeats all our hopes, which poisons us in our mother's milk, which murders us by the hands of our parents, which infects the only cordial that can preserve our being, which makes us accessory to our own fate, betrayed by those we choose to represent us, made slaves by our protectors, and given up by those elected to defend our liberties (but of this, and the terrible consequences I shall take farther notice.) Such a constitution would have prevented that inundation of profaneness, lewdness and immorality, introduced by Charles 2, and his atheistical wits, to fit the nation for the intended yoke of popery and slavery. To that end was all learning and virtue exploded in his reign; scorn of religion, contempt of a public spirit, derision of letters, and a pretending wit above rule, learning or scruples, being the sure and only recommendations to his favor, and public employments. No government but must leave mankind, as the Deity does his creatures, in a state of free-will, and therefore in an exercise perhaps of private vices, or concealed villanies: but in such a true English establishment we had never seen a rampant French whore openly governing our councils; we had not seen an English king (well understanding sea-faring matters) an open instructor to his brother of France in the mysteries of navigation, building and trade.

And to evince, as I go along, the interest of king and people equally to subsist in a steady, good, and incorruptible administration, the elder brother had never died an unnatural death in such a well regulated Protestant state, as would not have admitted of a bigotted, headstrong, popish successor. But let us leave this artful king, tricked in his tricks, outwitted by such a brother, plotted against by his son, unpitied by his subjects, though making way for such a successor, abandoned at last by his bishops, and with nothing to save him from a future account, but extreme unction from the priests of the whore of Babylon.—And now to the last, and in my opinion the best of the wicked reigns; for the project of a Standing Army under a popish king, did but hasten our Deliverance, as did the expedient of an heir under a belly of clouts. The son must really be got, and the army must be Protestant, I do not say really so, for the name will do. But I shall say less of the living prince, because of his misfortunes. He lives, and without a crown, which is punishment great enough for follies having the excuse of conscience, and mistake. Yet I can hardly contain when I remember he is the cause that all mankind have been getting our wealth, while our own recompence is, that we have got rid of himself. However I forgive him all the rest, but having left behind that worst of evils, a pretence to a Protestant army in a good reign, and in times of peace: and I will only lay to the charge of his brother of blessed memory, all the mischiefs arising from corrupt parliaments.

Now to this great point, and our most pressing danger, and the present and future remedies of them. I have hitherto been shewing what violences, what infamies, what follies, an uncorrupted parliamentary constitution would have prevented; which evinces sufficiently what we have to expect in future times, if a secure settlement be not obtained under a good king against the notorious increase of corruption in our age. It is now come to such a height, that it may almost be said, a wise prince must comply with it: for as in a weak and low condition, the physician must not apply the proper remedies till the patient has strength to bear it; so in our low and corrupted state, when patriots must be hired to serve their country, when Whigs go resty without pension or place, and begin with untimely barking against the government in war, to conclude with prostitute bawling for it after a peace; I say, when this is our case, when effectual laws have recovered our constitution, it must be confest, our princes have an excuse for practising the base arts of corruption, especially in times of eminent danger, which allow of no delays. This makes it plain that among men, lawyers must not only seek for coercive honesty; and legislators remembering that most necessary part of the most perfect prayer, Lead us not into Temptation, should have that principally in view for king and people, that neither be led into it. No emperor but envies the least bird upon the wing; but since flying is impossible, the great vicegerents of God upon Earth are content to walk upon two legs with common porters; and either kings must drop from Heaven, and then let them be Jure Divino, or mankind must be slaves, unless they provide such happy and irresistible laws as may restrain

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the love of power, as well in kings as statesmen. I will only desire the example may be given me, of the best of kings succeeding a bad one, who ever made it his choice to give up any authority or acquisition, though obtained by his predecessor by means he would not have practised himself. Since then the evils of bad princes are permanent, and the good establishments of just ones often overthrown by those that are arbitrary, what methods for the good of mankind and society, but to find chains strong enough to bind a tyrant, which can only be made here in England, when a good king with upright ministers beats the anvil, and uncorrupted parliaments find fire and materials? —The highest compliment I can make this king, is to say, This is the time for so glorious a work, and we have great reason to expect his utmost assistance: for in truth, deliverance and reformation are his very title. There is this unanswerable argument to prove it must be now or never: some infections must be checkt in time, or remedies will come too late; and I am sure we must flux now, or never expect to see a sound nose on the face of the government. Such a precarious peace as we have obtained, is hardly a blessing: but because it sets parliaments at liberty to settle our shattered state, let no time be lost then, when we are so unsecure of its lasting. But as I would willingly give some hints that may be serviceable at all times in the great cause of liberty, so I shall take notice, and that only from observations of the last reigns, what are the most dangerous symptoms threatening a people with loss of liberty: and when most of those circumstances concur at once (any one of which does threaten ruin) then I need not say a government is most in danger, and that the speediest and strongest antidotes should be provided against the influence of so many malignant constellations joined together.

To begin then with what the reign of king James the first will afford us: the most dangerous circumstance that could attend a nation, was a reasonable obligation to set upon the throne a prince born and bred up in another country, who must retain a foreign heart, who must be partial to the people, to the customs of his native land; who must therefore be unacquainted with the men, manners, privileges, and laws of those territories he is newly come to govern. This partiality is natural, and for that reason justifiable; and therefore as it seldom happens but that princes transplant themselves to a richer soil (as was the case of king James) so the wealth of the more opulent nation must always be prostituted to raise and supply the favorites of the poorer; and it is all can be expected, that they be not raised by hasty and unmerited favors: besides, it is almost impossible but the interests of the two nations or people must interfere, if he retains the jurisdiction of both, as this Scotch prince did. How perplext must the best of kings be in his divided thoughts and inclinations? And where, and to whom must nature and education incline him? It may happen, as in this case, that the unforced constitution of one country allowed a greater power, and greater prerogatives than were consistent with the laws of the other. How shall the spirit of a prince brook the refusal of that in one place, which he was used to the submission to elsewhere? How can he easily change a bent created perhaps by nature, and confirmed by custom? In one country required to head armies, in another obliged to encourage fleets: in one country troops are the support of men's property, in the other they must prove the ruin of their liberties; this distinction princes cannot easily make. Religion too, the great guide of men's actions, or at least their pretence, differs almost in all countries, even where it agrees in name: and we know by bloody experience, how little the Protestant religion of the Scots did agree with our episcopacy. Innumerable are the mischiefs arising from such a circumstance; but I confine myself only to what were the apparent dangers in the case before us.

Another dangerous symptom appearing in the reign of Charles 1, was this, That all his arbitrary designs were carried on, and disguised under the mask of the most precise piety. Such impious projects as arose from insolence and pride, that were carried on by breach of faith, that tended to the effusion of the best blood in the nation, were always transacted in forms, with fasting and prayers. As his Ship-money was maintained by his judges, so were all his other expedients to inslave the nation preached for by his church, and laboured for by his bishops.—Another threatening circumstance was, the advantage with which Charles 2 came to the throne. The nation was then intoxicated with joy; and he made as ill use of that opportunity, as Noah's daughters did of their father's drunkenness; as they went in to him, so he got into his people, and with all sly arts and corruption began the fatal (well-improved) project of bribing Parliaments. And that none might have a scruple of conscience against this highest of crimes, betraying their country, religion in his time was the jest of his favourites: but for himself, he had a different one ready for every nation and sort of people he had to do with; a Papist in France, a Presbyterian in Scotland, a Churchman in England, a Quaker with Penn, an Atheist with Halifax. A most dexterous practice this in all princes that pursue it, who thus easily impose on good people willing to be deceived.—Another certain warning of ensuing mischief (the very porpoise before the storm) is a standing army; which though it proved unsuccessful in king James's time, yet it immediately preceded his intentions of subverting all our laws, human and divine. He thought his project as infallible as his Pope, when so many of his troops were Papists and foreigners; being secure too of ships from abroad to transport more strangers when wanted. But all this was spoiled with one word, Popery.

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Heaven had in store an antidote against a popish army, pray God preserve us at all times from a Protestant one.

Now having recapitulated all these circumstances of approaching ruin, which we so narrowly escaped in the foregoing reigns, what would become of us if these difficulties should bear upon us (as in a hurricane) all at once? Whenever they do, well may the nation fear their impending fate. Yet after all I say, a free uncorrupted parliament would soon dispel these clouds. Under such a government as I have mentioned, king James the first had been compelled to have made use of English councils in governing an English nation: he had been obliged to have provided for his Scots favorites out of his Scotch revenue: he had no doubt been supplied with the money of England, but forced to have laid it out for the honour and interests of that people. Suppose the nation prepossest for him as they were for king Charles the second, relieved from long wars, from confusion, from Cromwells and usurpers; such a parliament would not then have sat still in idle rejoicing, but wisely have prevented the causes of future mourning: nay, give him the Standing Army of the unfortunate prince of his name (let it be a Protestant one too) yet such an assembly, with their steady wisdom and vigour, would have rescued their country from all these dangers. All I can allow, but the circumstances of king Charles's corrupted parliament: for the incorruption of that is my only remedy to all other evils; when that falls out with the rest, there is nothing left but for honest men to show the nation the precipice upon which they stand: and much may be expected from so brave a people, when waked out of their lethargy, and well apprised of their danger. I shall conclude this part with the questions of king James the 1st upon his accession to the throne, 'Do I make the Bishops? Do I make the Judges?' If to this he might have added, 'Do I make the House of Commons?' To such fatal interrogatories the answer is too plain.

Having treated (and with a freedom an Englishman may well take) of the circumstances of the last reigns, I come to a subject with more difficulty to be handled. What the people and parliament have to do at present may well be gathered from the foregoing considerations; yet I must say something of the Revolution, and what has happened since, were it only to acknowledge the obligations we owe to our present king. The oppressions and dangers from which he relieved us were so grievous, and the advantages we might have procured ourselves by his coming were so great, that we owe him the utmost gratitude, not to be overpaid by any thing but by such a confidence in his virtue, as (forgetful of times past and to come) should make us neglect the opportunity he has given us of securing to ourselves, the never being so much obliged to any other. This were the worst requital we could make him, to let it be possible by our negligence, that any person should ever rival him in his glorious title of 'Deliverer.'—Our present king has now the same game as he has all his life been successfully pursuing abroad, and the same business he has been bred up to in other countries: but he has now other tools to work with, a divided and corrupted people. His Declaration assures us, he came to secure our constitution, so as no ill prince, no evil ministers should be able to violate it for the future. I shall not now repeat what he has done in person towards all this; it were unnecessary flattery to repeat actions done in the face of the sun; but my business at present is to consider what has been deficient; and, as I proposed at first, to give some hints where the fault lies, and how it came about that we have been exposed to such hazards, and are yet unsecure; and this to the end the scene of his great life may be perfected, and his promises made good to us, in an establishment secured against future attempts.—I must confess I cannot wholly acquit the Convention, and other following parliaments. I doubt all the unnecessary hazards to which we have been exposed, all our unsuccessful undertakings, all the misgiven and mis-spent treasure, all that is deficient, or left undone to the compleating our security, must in a great measure be laid to their charge. It is well known, many in pamphlets, more in discourse, accuse them both of weakness and corruption: but they should consider that such a war was what never came afore into the hands of a parliament; the dangers and difficulties succeeding and increasing from year to year, were enough to amaze and distract the greatest assembly. I shall be far from passing so hard a judgment on them: my only wish is, if they have done well, that they may never do otherwise; if they have committed errors, the like may never happen. My ambition is their glory; only out of zeal to their honour, I shall take notice of some complaints made by others; and from myself take the liberty to say, that this ensuing parliament made free by a happy peace, must make the nation so for ever, or for ever lose their reputation.

This is the time in which parliaments should exert themselves for the nation's happiness and their own fame. All mankind have observed, this is the second revolution unimproved by parliaments in the same age; the one as ineffectual to the good of England in the hands of Patriots, Whigs, and Dissenters, as the other was in the hands of Cavaliers and Churchmen: which makes men apt to conclude, the fault lies in that part of our constitution on which we most rely. And the common reason given by all why parliaments have mismanaged, is, that they are so managed themselves: they do not only suppose them subjected to the power of kings, to the influence of great men, to the arts of old and crafty statesmen, but accuse them now of being led by beardless politicians, by upstart apprentices in business, neither supported by fortune, dignities or experience, and only buoyed up by projecting insolence. If

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this were the case, to what are we reduced? This is not Phaeton unfortunately conducting the horses of the sun, but a carrier driving packhorses and beasts of burden, which jog on their appointed stages for their pensions.

The proposed limits of a sheet, and not the subject, confine me; and therefore I shall repeat but one objection made to the wisdom of our national assemblies, which is, that the members of a Convention freely chosen, brought together at this Revolution, and miraculously delivered from the highest oppressions, should admit of the old underminers of our liberties for the new managers of reformation; and this I may say, as to their integrity, who would have admitted of such corrupters, but to be corrupted?—It may very well be said to the justification of some; When there was no government, no ministers, no money, no privy purse, who could influence? It must be confest (and here is the fatal error) if there was corruption it was from within: Nay it is plain, they must bribe themselves, and only with hopes and expectations; they were qualified by the constitution to have places, every fool was well qualified in his own thoughts, and every knave betrayed his trust and his country to make himself worthy.—Men have not only altered in our times, but parties have changed their principles and practices: If so, what cautions can be great enough in such an age? I come therefore to those considerations, what wise and honest men should do in this critical juncture I shall propose preventing physick, safe, were there no present disease, were there no corruption in our land, were all upright from the lord to the commoner; yet I doubt the golden age would not succeed, were all wise as Solomon, and after God's own heart as David: we know the follies committed by the one and the impieties by the other; let no man depend too much upon himself, let no government depend upon men. Presumption is the highest sin, and prevention the highest wisdom.

I doubt not but some will think, and more will say, I have writ a tedious preface to a very short treatise; that without so much repetition, without enumerating so many diseases, and times of infection, I might sooner have given my short receipt, which is this: Good people of England, elect those to represent you this parliament, who most probably will secure your being truly represented for ever. In other words, Those who have virtue enough to incapacitate themselves from any service but that of their country, while they take that trust upon them.—Now towards making such a choice, my instructions shall be as short as my advice: 'Chuse rich men.' For you may know who are rich, and cannot know who are honest: One you think honest may take money, but one that is rich does not want it. Let no character of party recommend or prejudice: poor Whigs, poor Tories, want equally places, and will act alike to get and keep them; but be sure if they want money much, they have not much ambition. Therefore avoid the younger sons of lords, who full of pride, with empty pockets, will endeavour, at the nation's cost, to become rich commoners. It is needless to advise against those whose actions have discovered them in foregoing parliaments, those worst of villains, who began like patriots, to conclude like parasites.—Thus I conclude, like a quack, undertaking my remedy shall cure all distempers, whether they lie in the heart or in the brain. No matter what sort of men conspire, whether the bold projects (flaming like comets in the sky) threaten multitudes, or whether the softer methods, like mines underground, work hidden mischief. Such a national assembly, under the qualifications I have mentioned, would repel the bashaw, and defeat the courtier, and prove strong enough to secure us from the most dangerous designs, those drest up with zeal, and disguised by improbability. Such a parliament would secure us from religious lewdness, protestant arbitrariness, and parliamentary slavery.

N° XVI.

A Letter to a Country Gentleman,* setting forth the Cause of the Decay and Ruin of Trade. To which is annexed, A List of the Names of some Gentlemen who were Members of the last Parliament, and now are (or lately were), in public Employments. London, printed in 1698.

SIR, Yours I received, bearing date the third of the last month, by which I find you seem to be much afflicted to see the trade of the nation ruined, and your native country brought into so great calamity as now it is; and desire me to give you some account, if possible, how, and by what means, all these evils have been brought upon the whole kingdom? Which I shall endeavour to do, in as brief a manner as I can, and, in order to it, shall relate to you some public transactions in relation to the late war, and then leave you and all rational men to judge, who it is have been the grand instruments of bringing all these evils upon us.

* Harleian Miscellany, vol. viii p 484.

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For the situation of our country and the constitution of our government, we have always been esteemed the happiest nation in Europe: and no people in the universe ever enjoyed a longer series of peace and plenty than we have done. Yet, during the time of the late war, we have seen the trade of the nation, some ages a raising, almost totally ruined; and a general poverty and distress brought upon the whole kingdom, and that in the reign even of the best of princes.

Trade has ever been the universal mistress of mankind, courted and caressed by all civilized nations, many bloody wars having been carried on by those that have been rivals for her favour; for she never fails to bestow invaluable blessings upon her admirers, being always attended with riches, honour, power, and all other earthly blessings.

Those nations that obtained her favour, and have not had the wisdom and prudence to retain her, we see have grown weak and despiseable, and lain exposed a prey to other nations, which appears to be the present case of Spain.

Our forefathers enjoyed a large share of her favour, which they carefully handed down to us; but we, like unthrifty and undutiful children, have been so far from following their footsteps, that we have been, as appears by our actions, great enemies to trade, and used all manner of violence to make her fly the nation, wherein she had long cohabited with us, and seemed unwilling to depart, till our continual acts of violence were such as they grew insupportable; so that she has now taken her flight into the neighbouring nations, viz. Holland* and Ireland, by whom she is highly caressed, and not like to return in haste; and, unless she do return, we can expect no other than to be a miserable people, land itself having a dependence upon trade, and rises or falls as that ebbs or flows.

But, before we can expect that, it is necessary to be known what way and means it was we took to make her desert us: unless we do so, we can never expect her return; for she is coy and nice, and will not bear the least affront, but cleave to those who treat her best.

The first ill-usage, trade appears to have met withal from us, was at the breaking out of the late war. Ever since, all manner of persons, things, or matters, that have had relation to, or were interested in trade, have been evil treated by those whose immediate duty it was to have encouraged and protected them.

It is well known our ships (under God) are our greatest security, and the glory of our isle, and the sailors our myrmidons, whom we ought to cherish as the apple of our eye; yet, all the time of the late war, they were most barbarously treated, even as if they had not been of the race of mankind, but a sort of vermin fit to be rooted out; for, what by their evil treatment on board ship, and frequent turning over without pay, the unjust pricking them 'Run' and being harrassed with the uncertainty of payments, many thousands of these poor wretches and their families have been destroyed, and great numbers constrained to leave their native country, and betake themselves to foreign service, or, which is worse, turn pirates.

This evil treatment of the poor sailors, though in itself highly wicked, seems to have been one of the least of the crimes committed in the government, tending to the destruction of trade;* for it appears, there were articles brought into the house of peers (the highest court of judicature in the nation) against the lords of the Admiralty, the commissioners of the navy, and the commissioners for the sick and wounded seamen, by one Mr. Crosfield, in the year 1694.

Upon which, their lordships examined divers witnesses at the bar of the house, and were very zealous in the matter; but it seems the articles were drawn out of the house, by the commissioners for stating the public accounts, who never proceeded therein, though their lordships issued out two successive orders for them so to do; but for your better satisfaction, and that posterity may see the wickedness of the age, I here give you a true copy of those articles, and which are as followeth:

Article 1. That the present commissioners for sick and wounded seamen, and exchanging prisoners at war (depending on the Admiralty) not regarding instructions or the good of the government, have committed gross enormities; as holding or conniving at an unlawful correspondence with the French, and wronging both the king and subject in their accounts, with other great miscarriages: all which has been, about a year since, laid in writing, before the secretary of state, by one Mr. Baston, and, by the king's command, examined

* The Dutch having grown rich by the late war, and improved themselves eight millions; they are a wise people, and, among themselves, strict observers of justice, never suffering any to grow great out of the ruins of the public; as sir William Temple well observes in his Memoirs, and which is the true cause of the flourishing condition of their state.

* For the first five years of the war, it appears, we were seldom free from an embargo upon shipping; few or no ships were allowed to sail, till they got protections or permits, to the great charge of the merchants, and damage to trade in general; as little care was taken to protect our shipping, not any one person having been so much as appointed to examine sea-commanders journals, all the time of the late war; but they were left to their own genius, to act and do as they pleased: and thus, by the lords of the admiralty's, and commissioners of the navy's wise conduct, and prudent management of affairs, we lost above a hundred ships of war, with many hundreds of merchantmen, to the great honour of the nation.

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before the lords of the Admiralty, &c. And it will appear, that the said commission has been very injurious to the poor sailors in particular, and very detrimental to the government in general.

Art. 2. That the lords of the Admiralty and commissioners of the navy have acted contrary to the public good, by countenancing, supporting, and preferring criminals; and on the contrary, persecuting the discoverers, and turning just men out of their offices.

Art. 3. That their lordships have had great discoveries laid before them of embezzlements, and other great frauds committed in the king's yards, attended with forgery and perjury.

Art. 4. That it is manifest, some of the commissioners of the navy have, in that office, advanced themselves from salaries of thirty pounds per annum, to vast estates, having passed great frauds, and totally discouraged the discovery of embezzled stores, to the great waste of the public treasure.

Art. 5. That it has been a long practice in the navy, to make out false tickets and powers, suspending and delaying the poor sailors in their just payments, to the general discouragement of them, and starving their families.

The commissioners of the post-office appear to have as much contributed towards the ruin of their country, as any persons living, having all along supported their officers in all their evil actions, as corresponding with known Papists, and others disaffected to the government, stopping the king's mail, breaking open persons of quality's letters, all along countenancing and supporting a smuggling trade, by bringing in the mail, and otherways, vast quantities of Flanders lace,* &c. Being resolved, it seems, to make as plentiful an harvest as they could, so long as the war lasted. Withal, they were not wanting to use all indirect means to ruin such of their officers, or others, that detected the crimes.

All these matters relating to the foregoing articles, and the commissioners of the post-office, were long since published in print, by divers hands, wherein a more large and ample account has been given of them; and they were dedicated and presented to our late representatives in parliament, who took no more notice thereof, than if these things had been acted and done in the Great Mogul's country.

Moreover, there appears to have been laid before our late representatives many other matters of the greatest importance:

First, In reference to the Toulon squadron getting into Brest: it having been declared by the house, the government had timely notice given, whereby the said fleet might have been intercepted.

Secondly, In relation to the Mint, it did appear to the house, the moneyers in the Tower had committed foul crimes, and that several dyes had been conveyed away for coining false money abroad.

Thirdly, In reference to the disbanded troopers, that served in Ireland and Flanders, who, by their petition, appear to have been most barbarously treated, contrary to his majesty's express commands.

Fourthly, In reference to the evil actions of the commissioners of the Victualling-Office.

Fifthly, In relation to the 27 sail of victuallers being taken by the Dunkirkers; the house having declared, the lords of the Admiralty had timely notice given them, whereby they might have prevented their falling into the enemies hands.

These, with a multitude of other matters, that lay before the house, were dropped by our late representatives, who took no manner of care to do the people justice:* indeed, the house appeared very zealous in the prosecution of Mr. Duncomb, who, as they alledged, wronged the king of about 360*l.* by the false endorsement of exchequer bills; though, at the same time, it plainly appeared, the king and kingdom had been wronged, by means of the treasury,† to the value of 20,000*l.* in relation to the exchequer bills. Yet, all they did, therein, was to take care how to wash them white; and, while the war was on foot, our late representatives seemed to be very zealous for an act to be made against the buying and selling of employments; but, when once we

* Indeed, these gentlemen have since been very instrumental in causing a late act to be made, the better to prevent the bringing in foreign bone-lace; as likewise have been the lords of the Admiralty, and commissioners of the navy, in procuring an act to prevent the embezzlement, and stealing his majesty's naval stores; and therein they have done wisely, when the seed is stolen, to shut the stable-door.

* Sad it is to consider, how all complaints of abuses done in the government have been stifled, for want of a committee of grievances, according to our ancient laws and customs, to be sitting, during the session of parliament, to hear the grievances of the people; which, it is plain, was not done all the time of the late war.

† The public treasure, in all ages and nations, has ever been accounted as sacred as the king's person; and those that have been found to purloin, waste, or misspend the same, have been severely chastised; and if it must be acknowledged, as every man will do, who is not a professed atheist, we are obliged by the dictates of nature, and that holy religion we profess, to do all such acts as tend to the good and benefit of mankind in general. What ground of fear then can any man have, that lays open public crimes, in order to their being examined in a judicial manner? And, if the law, which favours and countenances the act, shall not be able to protect him, little reason can any man have to flatter himself of being secure, the public peace and tranquility not being long to be maintained by any other means, than a due administration of justice.

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had obtained an honourable peace, they soon dropped the matter, as conceiving the people then better able to bear their pack,* than they were before. There is a matter, wherein it appears, the king has been wronged several thousand pounds, that was designed to have been laid before the late house of commons; but the gentleman, who intended to have done it, was dissuaded from doing it, by a member of the house, who plainly told him, of all their members, they could not make above 100 or 110 at most, in the whole house, that seemed to have any regard to the welfare of the nation: saying, one had one employment, another another, touch one and touch all, and said they did and would support one another;† and so by all means advised him to decline it. Now I conceive, it is obvious, by what means, and by whom, the trade of the nation has been brought to so low an ebb, and so many public debts contracted, by the consequence of which, many thousands of honest industrious families, in London, &c. are reduced to extreme poverty, at the same time, not knowing the true cause from whence their evils have risen. These things are very harsh to flesh and blood, when we consider how all our calamity appears to have been brought upon us, by those very persons, in whose hands we entrusted our lives, liberties, and estates.

We find king David complained he could not do the justice he would have done, the sons of Zeruiah were too strong for him; no wonder then, if we see our prince‡ under the same circumstance, who has had so many sons of Zeruiah to deal withal, who were sensible of the great interest they and their friends had in the several corporations, and how they were able thereby to support one another in whatever they should act or do, and put it out of the power of any, even the king himself, to call them to an account for their actions. It is evident, ours is a mixed government, wherein the people have a large share; and if we will not act our part, in reference to the chusing of members of parliament, great pity it is we should ever be relieved, but remain as we are.

By this, we may see what a great duty there lies upon all gentlemen that live in, or near any corporation and the principal inhabitants thereof, to inform the meaner sort of people therein (who, in most corporations, have votes) the absolute necessity there is of chusing gentlemen of good estates to be their representatives, as have not been in any (or long since declined) public employment, during the late war, there being no other means possible, whereby to make them sensible of these past miscarriages, or we to have such members, as will be able to rectify them, and do the king and kingdom justice;* public leaks being not to be stopped by the hands that made them.

It is sufficient to make any Englishman blush, to consider how strenuously our forefathers withstood those who made a breach of the law, and how indifferent and careless we appear to have been therein, ever since the late happy Revolution, not at all considering, how mankind are generally more liable, and in greater danger of being ruined by the falshood and treachery of friends, than open enemies; and that those who laythe foundation of great estates, for the most part, raise themselves by fraud, oppression, and injustice. And how in all ages they that were in public employments, or ambitious of honour and preferment, likewise generally have been found too ready to abuse their prince's ear, and trample the laws under their feet.

We may see by the bishop of Salisbury's pastoral letter, burnt by the common hangman, what sycophants these sort of men are, who care not what evils they bring upon the rest of mankind, so they may but advance themselves; and weeds commonly are apt to grow so fast, as to overtop the corn.

Thus, sir, have I given you a short relation of such matters of fact which plainly appear, as I conceive to have been the true cause, all the blood and treasure spent in the late war, for want of justice, in a manner has been lost, like water spilt on the ground.

Our trade being in great measure ruined, and the nation miserably plunged in debt, and in danger of being involved in a new war, about the succession of Spain, in which (according to the present circumstance, and management of affairs, we are in no condition to engage: so you may see the fatal consequence that attends the actions of men, when they leave the paths of virtue, and go along with the multitude to do evil. I am, sir, his majesty's

* Vide England's Calamities discovered, sold by —— Fox, in Westminster-hall, &c.

† Those gentlemen, that have been in public employments, have had great opportunity to execute their malice against them that detected or publicly laid open their crimes, and have not been wanting to use all arts and means whereby to bring them to ruin; by which means, several honest ingenuous gentlemen have died through grief, and many others through grief and want; and who may all truly be said to have died martyrs for their country.

‡ Whatever Englishman duly considers, how great and glorious the actions of his majesty have been, and to what hazard he exposed his royal person for our sakes, and the great things he has done for us, cannot but be moved with grief and anger, to see how unfaithful, in his absence, he has been served, and his people oppressed.

* It is hoped the citizens of London and Westminster, who correspond with all parts of the kingdom, will be so just to themselves, their king and country, as forthwith to send this and other things of the like nature, to the several corporations, for it will be as they make their choice, we may conclude, we shall be either happy or miserable.

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faithful subject, a true lover of my country, and, your most humble servant,

London, July 16, 1698. G. W.

A List of the Names of some Gentlemen who were Members of the last Parliament, and now are, or lately were, in public Employment or Trust.

A

Sir Edward Askew, knt. Commissioner of the Prizes, for Grimsby, Lincolnshire.

Sir Matthew Andrews, knt. Gentleman of the King's Bed-chamber, and Master of Trinity house, Shafton, Dorsetshire.

Matthew Aylmer, esq. a Flag Officer in the Fleet, Dover, Cinque-Port.

B

The hon. Peregrine Bertie, Vice Chamberlain, Boston, Lincolnshire.

The hon. Hugh Boscawen, Governor of St. Maw's Castle, &c. County of Cornwall.

William Blaithwait, esq. Secretary of War, one of the Council of Trade, and one of the Clerks of the Council, Bath, Somersetshire.

Nathaniel Bond, the King's Serjeant at Law, Dorchester.

William Bridges, esq. Secretary to the Commissioners for Paper and Parchment, Liscard, Cornwall.

John Burrard, esq. Governor of Hurst Castle, Lymington, Southampton.

John Burrington, esq. Commissioner of the Victualling, Oakhampton, Devonshire.

Thomas Blofield, esq. Receiver-General of the Excise for the County of Norfolk, Norwich.

The hon. George Booth, esq. late Commissioner of the Customs, Bostney, Cornwall.

The hon. Charles Bertie, esq. Treasurer of the Office of the Ordnance, Stamford, Lincolnshire.

C

The right hon. Lord Coningsby, late Lord Justice of Ireland, Leominster, Herefordshire.

John Conyers, esq. one of his majesty's Council at Law, East-Grimstead, Sussex.

Sir Robert Clayton, knt. late one of the Commissioners of the Customs, London.

Edward Clark, esq. Commissioner of the Excise, Taunton, Somersetshire.

The hon. John Lord Cuts, Baron Gouram, Governor of the Isle of Wight, and Colonel of Foot, Cambridgeshire.

Sir Robert Cotton, knt. Post-master-General, Newport, Isle of Wight.

William Culliford, esq. Surveyor-General of his Majesty's Customs, Corfe-Castle, Dorsetshire.

William Coward, esq. King's Serjeant at Law, Wells, Somersetshire.

William Cowper, esq. King's Council, Hertford.

D

Edward Dummer, esq. Surveyor of the Navy, Arundel, Sussex.

Thomas Done, esq. Auditor of the Imprest of the Exchequer.

Thomas Dore, esq. Lieutenant-Colonel to Col. Gibson's regiment, Lymington, Southampton.

Sir Robert Dashwood, knt. and bart. Commissioner of the Excise, Banbury, Oxfordshire.

Sir Ralph Delaval, late a Flag Officer in the Fleet, Great Bedmin, Wilts.

E

Sir Stephen Evans, knt. Commissioner of the Excise, and Commissioner for Wine-Licenses, Bridgeport, Dorsetshire.

Thomas Earle, esq. Major-General of the Army, Governor of Portsmouth, and Colonel of two Regiments of Foot, Warhaw, Dorsetshire.

F

Sir Stephen Fox, knt. Lord of the Treasury, Westminster.

Sir Thomas Felton, Bart. Master of his Majesty's Houshold, Orford, Suffolk.

Sir William Forrester, one of the Commissioners of the Greencloth, Northumberland.

William Farrer, esq. one of the King's Council, Bedford.

The right hon. Viscount Fitzharding, a Teller in the Exchequer, Windsor, Berkshire.

Sir Thomas Frankland, bart. Post-master-General, Heydon, Yorkshire.

The right hon. Lord Fairfax, Colonel of a Regiment of Dragoons, York.

Charles Fox, esq. Pay-master to the Army, Cricklade, Wiltshire.

G

Sir Henry Goodrick, Lieutenant-General of the Ordnance, Burrowbridge, Yorkshire.

John Gauntlet, esq. Clerk of the Signet, Wilton, Wilts.

Charles Godolphin, esq. Commissioner of the Customs, Helston, Cornwall.

Sir Rowland Gwyn, late Treasurer of the King's Chamber, Tiverton, Devonshire.

Francis Gardner, esq. an Employ in the Mint at Norwich, Norwich.

The hon. Ralph Grey, esq. Auditor of the Exchequer, Berwick.

Sir Bevil Granvile, Governor of Pendennis Castle, and Colonel of Foot, Fowey, Cornwall.

John Gibson, esq. Colonel of a Regiment of Foot, and Deputy-Governor of Portsmouth, Portsmouth.

H

The hon. sir Robert Howard, knt. Auditor of the Exchequer, Castlerising, Norfolk.

Henry Haveningham, Lieut. of the Band of Pensioners, Dunwich, Suffolk.

Robert Henley, esq. Commissioner of the Customs, Lime-Regis, Dorsetshire.

Thomas Howard, esq. a Teller of the Exchequer, Bleching, Surrey.

Sir Joseph Herne, Patentee for Copper Halfpence, and Trustee for Circulating Exchequer-Bills, Dartmouth, Devonshire.

Sir John Hawles, knt. Solicitor-General, Wilton, Wiltshire.

Sir Henry Hobart, bart. Commissioner of the Customs, County of Norfolk.

James Herbert, esq. Treasurer of the Prize Office, Ailesbury, Bucks.

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Simon Harcourt, esq. Secondary in the Crown Office, Abingdon, Berkshire.

I

Sir Henry Johnson, knt. a great builder of ships for the king by contract, Aldborough, Suffolk.

Sir Jonathan Jennings, Commissioner of the Prize Office, Rippon, Yorkshire.

K

James Kendal, esq. Lord of the Admiralty, Port Pigham, alias West Loe, Cornwall.

John Knight, esq. late Auditor of the First-Fruits, Weymouth, Dorsetshire.

L

Sir Thomas Littleton, bart. Lord of the Treasury, New-Woodstock, Oxfordshire.

James Lowther, esq. Clerk of the Stores of the Tower, Carlisle, Cumberland.

William Lownds, esq. Secretary to the Lords of the Treasury, Seaford a Cinque-Port.

Sir John Lowther, bart. for many years past Lord of the Admiralty, Cumberland.

M

Charles Montague, esq. Chancellor of the Exchequer, Under-Treasurer of the same, one of the Lords of the Treasury, &c. Westminster.

Sir Thomas Mompesson, knt. one of the Commissioners of the Privy-Seal, in the absence of the earl of Pembroke, New Sarum, Wilts.

John Methuin, esq. Lord Chancellor of Ireland, Devizes, Wilts.

Christopher Montague, esq. Commissioner for Paper and Parchment, Northampton.

Sir Charles Musgrave, bart. Master of the Robes to the Queen Dowager, Appleby, Westmoreland.

N

Thomas Neale, esq. Master of the Mint, and Groom-Porter, Lurgeshall, Wilts.

O

Foot Onslow, esq. Commissioner of the Excise, Guildford, Surry.

Charles Osbourn, esq. Lieut. Governor of Hull, Hull, Yorkshire.

P

Thomas Pitt, esq. Master in Chancery, Old Sarum, Wilts.

Thomas Pelham, esq. Lord of the Treasury, Lewis, Sussex.

The hon. Henry Priestman, esq. Lord of the Admiralty, Shoreham, Sussex.

Thomas Papillon, esq. Commissioner of the Victualling, London.

R

The right hon. Lord Edward Russel, Treasurer of the Chamber, County of Bedford.

Sir Robert Rich, Lord of the Admiralty, Dunwich, Suffolk.

The right hon. Lord Robert Russel, Clerk of the Pipe, Tavistock, Devonshire.

The right hon. Richard Lord Ranelagh, Pay-master-General to the Army, and Governor of Chelsea-College, Chichester, Sussex.

S

The right hon. John Smith, esq. Lord of the Treasury, Andover, Southampton.

George Sayer, esq. Lieut. of the Yeomen of the Guards, Canterbury.

Sir Cloudsly Shovel, Admiral of the Blue, Commissioner of the Navy, and Colonel of a Marine Regiment, Rochester, Kent.

James Slone, esq. Secretary to the Chief Justice in Eyre, Thetford, Norfolk.

The hon. James Stanley, esq. Groom of the King's Bed-chamber, Secretary to the Household, and Colonel of Foot, County of Lancaster.

T

Sir William Trumball, knt. late Principal Secretary of State, Oxford University.

Sir Thomas Trevor, knt. Attorney-General, Plimpton, Devonshire.

John Taylor, esq. Book-keeper to the Treasurer of the Navy, and Usher of the Receipt of the Exchequer, Sandwich, Kent.

Charles Trelawney, esq. a Major-General in the Army, and Colonel of a Regiment of Foot, East-Low, Cornwall.

Henry Trelawney, esq. a Colonel in the Army, East-Low, Cornwall.

Joseph Thurbarne, esq. King's Serjeant at Law, Sandwich, Kent.

U

The right hon. J. Vernon, esq. Principal Secretary of State, Penryn, Cornwall.

W

Sir Joseph Williamson, Keeper of the Records of State, Rochester, Kent.

Sir William Wogan, one of the King's Serjeants at Law, Haverford-West, Wales.

Richard Woolliston, esq. Receiver-General for the County of Hertford, Whitchurch, Southampton.

The hon. Good Wharton, esq. Lord of the Admiralty, Cockermouth, Cumberland.

Edmund Webb, esq. Gentleman-Usher to the Prince of Denmark, Cricklade, Wilts, &c.

N° XVII.

The History of the Kentish Petition, in 1701.*

It would be hard to suspect him of errors in fact, who writes the story of yesterday: a historian of three weeks must certainly be just, for had he never so much mind to lie, it would be nonsense to expect the world could be imposed upon, every body's memory would be a living witness against him, and the effect would be only to expose himself.—Authors of histo-

* Somers' Tracts, 2 Col. vol. iv. p. 300. See Proceedings of the House of Commons, May 8, 1701, and Note.

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ries generally apologize for their quotations, plead their industry in the search after truth, and excuse themselves by asserting the faithfulness of their collections. The author of the following sheets is not afraid to let the world know, that he is so sure every thing that is related in this account is literally and positively true, that he challenges all the wit and malice the world abounds with, to confute the most trifling circumstance. — If aggravations are omitted, and some very ill-natured passages let go without observations, those persons who were guilty of them may observe that we have more good-nature than they have manners; and they ought to acknowledge it, since a great many rudenesses both against the king himself and the gentlemen concerned have escaped their scurrilous mouths which are not here animadverted upon.—And lest the world should think this presumptive, and that the accusation is only a surmise, we will query what they think of that kind remark of Mr. J. How, finding the king's Letter to the house, and the Kentish Petition to come both on a day, and the substance to be the same, 'That the king, and the Dutch, and the Kentish men were all in a plot against the house of commons.'—I could have swelled this pamphlet to a large volume if I should pretend to collect all the Billing-gate language of a certain house full of men, against the king, the lords, and the gentlemen of Kent; but it is a fitter subject for a satire than a history: they have abused the nation, and now are become a banter to themselves; and I leave them to consider of it, and reform.—I assure the world I am no Kentish man, nor was my hand to the Petition: though had I been acquainted with it, I would have gone a hundred miles to have signed it, and a hundred more to have had the opportunity of serving my country, at the expence of an unjust confinement for it.—It may be fairly concluded, I am no Warwickshire man neither, with a Petition in my pocket brought a hundred miles, and afraid to deliver it. Nor my name sir Robert Clayton, by which you may know that I did not promise the members, who were then in fear enough, to use my interest to stifle a city petition. Nor is my name Legion, I wish it were, for I should have been glad to be capable of speaking so much truth, and so much to the purpose as is contained in that unanswerable Paper.—But I am an unconcerned spectator, and have been an exact observer of every passage, have been an eye and ear-witness of every most minute article, and am sure that every thing related, is as exactly true as the causes of it all are scandalous and burthensome to the nation.—As to the gentlemen of the house of commons, I shall not pretend to enter into their character, because I care not to enter into captivity, nor come into the clutches of that worst of brutes, their serjeant. Literally speaking, no member of the house of commons can be a Jacobite, because they have taken the oaths to king William. But this may be observed, that the Jacobites in England are generally the only people who approve of their proceedings, and applaud their measures; and it is observable that at Paris, and St. Germans, the genteel compliment of a health in all English company is, 'a la sante de Monsieur Jack-How;' the truth of which there are not a few very good gentlemen in town can attest, from whence I think I may draw this observation, that either he is a Jacobite, or the Jacobites are a very good-natured people. *Noscitur ex socio qui non dignoscitur ex se.*—The following sheets contain an exact History of the Kentish Petition, and of the treatment the gentlemen who presented it, met with both from the house, the serjeant, and at last from their country. The best way to come to a conclusion, whether the gentlemen Petitioners were well or ill used, is to review the matter of fact, all panegyrics and encomiums come short of the natural reflections which flow from a true Account of that Proceeding, and the whole is collected in this form, that all the world may judge by a true light, and not to be imposed upon by partial and imperfect relations.

On the 29th of April, 1701, the quarter-sessions for the county of Kent, began at Maidstone, where William Colepeper, of Hollingbourn, esq. was chosen chairman, though he was then absent, and with an unusual respect the bench of justices proceeded to do business, and kept the chair for him, for several hours, till he came.—The people of the county of Kent, as well as in most parts of the kingdom, had expressed great dissatisfaction at the slow proceedings of the Parliament; and that the king was not assisted, nor the protestants abroad considered; and the country-people began to say to one another in their language, 'That they had sowed their corn, and the French were a coming to reap it;' And from hence it is allowed to proceed, that during the sitting of the session, several of the principal freeholders of the county applied themselves to the chairman aforesaid, and told him, it was their desire that the bench would consider of making some application to the parliament, to acquaint them of the apprehensions of the people.

The Chairman replied, 'It was the proper work of the grand-jury to present the Grievances of the country, and therefore he referred them to the said grand-jury who were then sitting.' The grand-jury being applied to, accepted the proposal, and addressing to the said Mr. Colepeper, the chairman acquainted him that they had approved of such a motion made as before, and desired that the bench would join with them; the chairman told them he would acquaint the justices of it, which he did, and they immediately approved of it also, and desired the said Wm. Colepeper, esq. their chairman, to draw a Petition.—Mr. Colepeper withdrew to compose it, and having drawn a Petition, it was read and approved, and immediately ordered to be carried to the grand jury, being 21 in number, who all unani-

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mously signed it, and brought it into court, desiring all the gentlemen on the bench would do the same; whereupon the chairman and 23 of the justices signed it, and the freeholders of the county crowded in so fast, that the parchment was filled up in less than five hours time; and many thousands of hands might have been had to it, if the justices had not declined it, refusing to add any more rolls of parchment, as insisting more upon the merits of the Petition, than the number of subscribers. By all which it appears how foolish and groundless their pretences are, who would suggest, that the Petition was a private thing transacted by a few people; whereas it is plain it was the act and deed of the whole county.—As soon as the Petition was signed and there was no more room for any hands, it was delivered by the grand jury to the aforesaid Wm. Colepeper, esq. chairman of the session, and he was desired to present it in their names to the Parliament, which at their request he promised to do, and the rest of the gentlemen, viz. Thomas Colepeper, esq.; Justinian Champneys, David Polhill, esq.; and Wm. Hamilton, esq.; offered themselves to go with him.

On Tuesday the 6th of May they came to town with the Petition, and the next day they went up to the house, and applied themselves to sir Thomas Hales, in order to desire him to present it to the house; he being one of the representatives of the county of Kent; sir Thomas read the Petition, and telling them it was too late to present it that day, it being after 12 o'clock, desired they would let him show it Mr. Pelham of Sussex, and Mr. Colepeper told him he was willing enough Mr. Pelham should see the Petition, not doubting he would be a friend to it, but that he was unwilling to part with it, being intrusted with it by his country, adding, 'That he should make but an indifferent figure in the country, if the Petition should be got out of his hands and lost.' Whereupon sir Thomas Hales past his word and honour, that he would not show it to any person whatever, but to Mr. Pelham, and that he would return it to them immediately. But this word and honour so solemnly engaged, was as easily forgotten: for having got the Petition, he carried it into the house, where he stayed an hour and a half, and then returning, he gave it to the gentlemen; and told them he had shewn it to sir Edward Seymour and several others. This perfidious action to that very part of the nation which he represented, deserves some special notice, and there is no question but the people will remember it for him, and show their resentment on proper occasions.

Mr. Colepeper, in the name of the rest, gave him an answer suitable to the action, and sufficient to let him know their surprize at so ungentleman-like usage, viz. 'That he had broke his word, and served his country very ill.' But this being neither place, nor season, for further debates, he appointed to meet them in the evening, and then after making them wait two hours beyond his time, he adjourned them till next morning in the Court of Requests, where he told them absolutely, that he would not deliver the Petition.—Here it is very observable, that at the very time sir Thomas Hales came out of the house, and returned the Petition in the manner above-mentioned, Mr. Meredith, the other representative for the county, came to them, and told them that their Petition had been exposed in the house, and that Mr. How was then making a speech against it.

The gentlemen finding themselves thus betrayed by sir Thomas Hales, consulted together about finding another more proper person to deliver the Petition, and resolved to apply themselves to Mr. Meredith, the other member for the county of Kent, and Mr. Meredith having agreed to deliver it, in case sir Thomas Hales should refuse, had appointed to meet them, with several other gentlemen, members of the house, in order to consult about the matter of the Petition, and the manner of delivering it.—In the morning the house being met, Mr. Meredith came out and told them the house was in such a ferment that none of the gentlemen durst appear for it, nor come to them, and he doubted would not venture so much as to speak a word in the house for the Petition.—Nor were these all the discouragements the gentlemen met with in their presenting the Petition, but several members of the house pretending respect, and others that were really their friends, and in concern for them, came out of the house to them, and endeavoured to persuade them not to expose themselves to the fury of the house, by delivering the Petition, telling them that Mr. How in particular had said, 'That if there were one hundred thousand hands to the Petition, they should be all made examples of.' And sir Edward Seymour added, 'That the whole country should be double-taxed, and the estates of those who presented it, be confiscated to the use of the war.'

Although these menaces, together with the almost omnipotent power of the house of commons, had circumstances enough in them to shake the resolution of a whole county, yet they had not the effects here which was expected, for the gentlemen, far from being terrified at all this, unanimously declared their resolution to discharge the trust placed in them by their country, and to present it to the house; and Mr. Wm. Colepeper in particular alluding to the words of Luther, to those who dissuaded him from going to the city of Worms, told them, 'That if every Tile upon the chapel of St. Stephen's was a Devil, he would present the Petition.' And all of them declared, 'That if none of the gentlemen would do their country so much service as to present their Grievances to the parliament in a legal Petition, they would knock at the door of the house and deliver it themselves.' Mr. Meredith, finding the gentlemen so resolute, did consent to carry in the Petition, which he performed with great discretion and fidelity.

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The Petition being thus delivered, the gentlemen attended, for Mr. Speaker, further to intimidate them, had let fall some speeches, 'That it was the usage of the house when a Petition was brought in, the persons who presented it ought to be ready without to justify the matter of their Petition.' And the gentlemen seeing no reason to be ashamed of theirs in particular, resolved to abide the utmost which their and the nation's enemies could do to them. Having waited about half an hour, they were called in to the bar of the house, where Mr. Speaker, treating them in his usual haughty tone, this short dialogue passed between them:

Speaker. Gentlemen, is this your Petition? [Holding up the Petition by the one corner.]

Gentlemen. Yes, Mr. Speaker. [Bowing very respectfully.]

Speaker. And, gentlemen, you own this Petition?

Gentlemen. Yes, Mr. Speaker.

Speaker. And, gentlemen, your hands are to this Petition?

Gentlemen. Yes, Mr. Speaker.

Speaker. [Turning to one of the clerks.] Carry it to them, and see if they will own their hands. [Which they severally did.]

Speaker. Withdraw, and expect the order of the house.

Whereupon they withdrew, and attended in the lobby, and now began the second attack upon their resolution; for the members, who came out, represented with all the terror imaginable the fury of the house; imprisonment and the ruin of their fortunes and families was the least they had to expect; impeachments, laws *ex post facto*, tacking them to Money-Bills, and all the arbitrary methods which any arbitrary parliament have ever made use of ruin those who have felt their magnipotent indignation, were laid before them. When some who pretended pity for the misfortune of so many worthy gentlemen, came out of the house and told them they had yet a lucky moment left them, by an immediate submission, to fly to the clemency of the house, that they were sent out by sir Edward Seymour and the rest of the gentlemen on that side, to let them know that Mr. How was now speaking, and would continue so for some time, to give them opportunity to recollect themselves, and by a timely acknowledgment to save themselves from ruin.

The gentlemen being at a loss to know in what particular they could have given the house such offence, and being well assured they were in the protection of the law, and had not acted any thing but what the known constitution of the realm expressly allowed, remained still unshaken, and boldly replied, 'They had nothing to say but what was in their Petition.'—But being further pressed by sir Theophilus Oglethorpe, and several other gentlemen; and because they would not show any disrespect to the house, or seem to slight their displeasure, they considered of an Answer to be given to the proposal of submission. And because whatever Answer they gave might be misrepresented to the house, delivered by word of mouth, they resolved to put it into writing, and having consulted a while they agreed to send in this civil Answer:

'We are humbly of opinion, that it is our Right to petition this honourable house, according to the Statute of 13 Car. 2. As to the matter of our Petition, we declare that we intend nothing offensive to this honourable house.'

This Writing being shewn to sir Theophilus Oglethorpe, and several other members, they began to smile, and imagined their point gained, and told the gentlemen they were glad they began to be sensible of their danger; and if they would but add one word more, viz. That they were sorry for what they had done, they would undertake for the clemency of the house: This they unanimously refused, one of the gentlemen with some heat replying, 'We will have 'no sorry.' Here the members (or conspirators rather) would have had them put it, that they did it through inadvertency. This they also refused, declaring they did it at the request of their country, maturely and deliberately, were justified in doing it by the laws of the land, and they would never recede from it. So they delivered the Paper to sir Thomas Hales, but whether he delivered it to the house or no, he never had the civility to inform them.

The debate in the house held five hours, after which notice was given them by the messengers, that the house had voted the Petition scandalous, insolent, and seditious, [vid. the Votes] tending to destroy, &c. and ordered them to be taken into custody for the same; upon which the gentlemen went and immediately surrendered themselves to the Serjeant, though the warrant was not made out for some hours after. The Serjeant only asked them where he should come to them at dinner, which was agreed to be at the Castle-Tavern in Fleet-street, where they dined on Thursday, Friday, and Saturday, and were hitherto very civilly treated by his officers; and accompanied by great numbers of citizens and gentlemen of the first quality, and not a few of the nobility; the officers were seldom with them, went of errands for them, and oftentimes were all absent together; so that there was no colour of reason for the serjeant to say, he feared a rescue, for they had all the opportunities they could desire, if they had had the least design to escape, and it was never heard of that they who could escape when they plensed, would expose their friends to the hazard of a rescue.

On Friday in the evening, Mr. Serjeant began to treat with them, and representing his absolute power, letting them know, that he had an unbounded liberty of using them at discretion, that he could confine them at pleasure, put them into dungeons, lay them under ground, keep them apart, remove them daily, and keep all people from them, by making them close prisoners. He thereby gave them to understand, that he expected a consideration suit-

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able to his civility; upon this the gentlemen offered him 100 guineas, half in hand, and the other when they should be discharged, though it should be next day: The Serjeant neither accepted nor refused the offer, nor expressed any dislike as if he thought it too little, but appointed to come to them the next day.

Saturday in the evening Mr. Thomas Colepeper, having notice that his lady was very much frightened at his confinement, desired leave of the messenger in whose custody he was, to let him go down to Maidstone, upon his parole, to return by Monday night; which the messenger tacitly granted.—The rest of the gentlemen being met at the tavern, expecting the Serjeant according to appointment, and having waited till 10 o'clock, instead of coming himself, he sends orders to the messengers to separate the gentlemen, and confine them in several prisons, that very night; which order the officers executed as rudely as the Serjeant could desire, saving that they obtained the civility from the officers to be confined two in one place, and two in another; but were hurried away with such unmannerly indecency, that they would not permit them to send for their night-gowns and necessaries.—In this manner Mr. Wm. Colepeper and Mr. Justinian Champneys were carried to Myatt's house, the messenger, in Fox-Court in Holborn, where they had this hard choice proposed to them at their entrance, Whether they would lodge in the cellar or in the garret; and chusing the latter, they were thrust into a little hole on the top of the house, where they had all the inconveniences of a nasty prison, as base lodging, foul sheets, little covering, and a cold room; by which means they both took such cold as they have not yet recovered.

But Mr. Serjeant, lest they should not be treated ill enough, coming the next morning to Mr. Myat's house, was in a great rage at him, and drawing his sword cut him over the head, for 'using the gentlemen so civilly,' as he called it; afterwards coming up into the garret where Mr. Colepeper and Mr. Justinian Champneys were lodged, they asked him, What order he had for using them thus? He replied, He had an order from those who committed them. Being asked again, If there was any such Vote passed the house? He said, no; but he had an order. Mr. Colepeper replied, 'If it be not a 'Vote of the house, pray how is it an order? Have the majority of the house, one by one, come to you, and given you direction to use us thus barbarously?' He replied, Yes, they had. For which scandalous reflection, if false, his masters, the members of the house of commons, are exceedingly obliged to him. Mr. Colepeper told him, 'He believed he should live to see 'him hanged;' And so they parted.

All this while Mr. Polhill and Mr. Hamilton were put into a cellar, without the favour of having their choice, and had so vile a lodging that they could scarce breathe; and were likewise in their turn bullied by Mr. Serjeant the next day; and when they asked him to shew them the copy of their commitment, he denied it; Mr. Polhill in particular replied, they asked him nothing but what by law he ought to grant: he rudely replied, 'He cared not a fart for them, nor the law neither.' And so left them; which refusal of his he may hear of again perhaps in a way of legal application.

On Tuesday he gave the house notice, that the younger Mr. Colepeper had made his escape, though he had a letter from him that he would be in town that very day; and at the same time he made a complaint that the other gentlemen behaved themselves so disorderly, that he apprehended a rescue; though the gentlemen, to avoid any suspicion, had voluntarily surrendered their swords to the messengers, without being required so to do.—This complaint to the house was the gentlemen's deliverance, and the serjeant's disappointment, though not in kindness to them neither, for ordering them to the Gatehouse, as a more ignominious confinement, the serjeant lost the extravagant fees which he designed to extort from them; and the humanity of captain Taylor, the keeper of the Gatehouse, made their restraint easy to them; for this keeper used them like gentlemen, and the reputation he has obtained by his civility, will be as lasting as the infamy of the serjeant; the one leaves a grateful acknowledgment in the mouths of all men, and will always be spoken of to his advantage; and the other, nauseous like the person, is dishonourable both to his memory, and to the house that employed him.

On Wednesday, Thomas Colepeper, esq. the younger brother, who had been in Kent, and who was just come up according to his promise, rendered himself to the Speaker, and desired to be sent to his brethren. Mr. Serjeant, who thought to make himself amends upon him, laboured to have him continued in his custody, and had not that party in the house thought the Gatehouse a greater punishment, possibly it had been so. But therein that infallible house were deceived, and he was delivered from the hands of a villain, by his enemies themselves, who thought they had mortified him the more, to the infinite regret of the serjeant, and the general satisfaction of his fellow sufferers.

The same morning that Mr. Colepeper surrendered himself, "The Legion Paper," as it was called, was sent to the house; it was said it was delivered the Speaker by a woman, but I have been informed since that it was a mistake, and that it was delivered by the very person who wrote it, guarded with about 10 gentlemen of quality, who, if any notice had been taken of him, were ready to have carried him off by force; it was reported, that Mr. Thomas Colepeper brought it out of Kent, and that all the country were at his heels to make it good, though it was really no such thing, and that gentleman declared he knew nothing at all of it.

But be it as it will, that Paper struck such a terror into the party in the house, that from that time there was not a word ever spoken in

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the house of proceeding against the Kentish Petitioners, and the members of that party began to drop off and get into the country, for their management began to be so disliked over the whole nation, that their own fears dictated to them they had run things too far.—The clashings with the upper house about the Trial of the four peers they had impeached, and the miserable shifts they were driven to by the lords, to avoid trying them, served but to make them more uneasy, and to hasten the dispatch of the Money bills in order to the prorogation, which was on the 23d of June, 1701.—By the prorogation, the Kentish gentlemen were discharged; but to shew their respect to the civility of captain Taylor their keeper, they continued to lodge with him till they went into the country.—The first honour done them on account of their sufferings, was their being invited to a noble entertainment at Mercers-Hall in Cheapside, at the charge of the citizens of London, where above 200 gentlemen dined with them, together with several noble lords and members of parliament.

Thursday, the 2d of July, they set out for Kent; the citizens had offered to accompany them out of town, but they declined it, desiring to go privately. And those who pretend to charge them with affected popularity, would do well to remember, that they were fain to send their coaches empty out of town, and go by water to meet them, to avoid the respect which the citizens would have shewn them.—But there was no shunning the appearance of the country, who shewed their value for the gentlemen, and the cause for which they had suffered, in all the possible terms of respect and affection. The first instance of this was at Blackheath, where Mr. David Polhill, one of the gentlemen, was to separate from the rest, his road lying near Bromley to his house at Ottford in Kent. He was met at Blackheath by above 500 horse, who received him into the midst of them, and surrounded his coach with such shouts, and joy, as sufficiently testified their respect for him and their satisfaction at his return among them: Nor can I omit, that having to satisfy my curiosity, drank among and discoursed with some of that party, while they were waiting for Mr. Polhill, I never heard of any gentleman more universally beloved by the country, or more particularly distinguished for modesty and temper; and I believe I may affirm that it would be hard to find any gentleman so near the city of London, who could have had such an appearance, of his own tenants and neighbours, to congratulate his deliverance.—Mr. Polhill being come to the corner of the park wall on Blackheath, stopt to take his leave of his brethren, and giving them a loud huzza, wished them a good journey, and proceeded to Ottford.—All possible demonstrations of joy concluded the day, and it has not been known that the country ever expressed more satisfaction since the coronation of king William, than at the return of this gentleman.—The rest of the gentlemen proceeded to Rochester, where they were met by such a body of horse, that the principal inns of the town could not entertain them, some of them had come twenty miles to meet them.—The mayor of Rochester paid his respect to them, and complained that he had no notice given him of their coming, otherwise he would have met them out of town with a good body of horse.—Here they rested to refresh themselves and horses, and about six o'clock set forward for Maidstone; the people of Maidstone, though it was market-day, could not have patience to wait at the place where they generally go to meet the judges, but a great many horsemen met them on the down, and the top of Boxley-hill, four miles from the town.—At Sandlin, about two miles from the town, the gentlemen of the neighbourhood met them with their coaches, and an innumerable multitude of people on horseback, and on foot, shouting and bidding them welcome.—After a short stay here to receive the compliments of the gentlemen, they proceeded, the gentlemen's coaches falling in the rear, to the park, the seat of the lady Taylor, who is married to Mr. Thomas Colepeper, where they were welcomed by the said lady Taylor, the old lady Colepeper, the mother of the gentleman, and several ladies of quality, the people shouting all the while, A Colepeper, a Colepeper, and the poor strowing the ways with greens and flowers; and thus they proceeded into the town, with such universal acclamations of the people, as the like was never seen in that country since the Restoration of king Charles 2.—The night concluded with a great bonfire, and the healths of all the gentlemen drank round it, to the great mortification of the Jacobites, of whom there are but very few in those parts; and to the general satisfaction of the country.—Nor was this the only appearance, for at Beartsted, about three miles further, the country was assembled, the bells rung, and several hundreds of the people continued together all night, with extraordinary joy, expecting that the elder Mr. Colepeper, Mr. Champneys, and Mr. Hamilton, would have continued their journey to Holingbourn, the ancient seat of the family of the Colepepers; but the extraordinary reception they found at Maidstone, had detained them so long, that it was too late to go on; so they lay at Maidstone that night, and the next day abundance of gentlemen and country people came particularly to pay their respects to them, and bid them welcome into the country.—And at the time of the assizes lately held at Maidstone, the grand-jury, consisting of very eminent gentlemen and freeholders of the county, whereof twelve were justices of the peace, went in a body to the gentlemen, and publicly gave them thanks for their fidelity to the country, in delivering their Petition to the parliament.—In all these expressions of the country's joy at the return of these honest gentlemen, it might be enquired, what they said of the parliament? because it is so natural to curse with one hand, when we bless

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with the other, that it might be rationally expected; it is true, the country being justly disobliged at the ill usage of these gentlemen, did not spare their reflections, but I chuse to pass it over, because it is not parliaments in general, but the conspirators and Jacobite party in a parliament, that are at present the nation's burthen, and from whom she groans to be redeemed.

The Conclusion.

Had this nation listened to the calls of their own reason, and to the voice of things, all this confusion of councils had been prevented; had the people of England chosen men of honesty, and of peaceable principles, men of candour, disengaged from interest and design, that had nothing before them but the benefit of their country, the safety of religion, and the interest of Europe, all this had been avoided; they would never have imprisoned five honest gentlemen, for coming to them with the sense of their country in a peaceable Petition; they would never have had the occasion to repent of their refusing to hearken to the voice of the people: But it is too late to look back, the nation has had the misfortune to chuse them, and our peace, and liberty, and the Protestant interest in Europe is too much in their hands.

All the advice I can pretend to give my fellow-slaves and countrymen is, that they would not be backward to let the gentlemen know, that the nation is sensible they are not doing their duty; and withal, that to impose upon the rights and liberties of the English nation, has always been fatal to the persons of those who have attempted it, and their examples stand as buoys and marks to warn posterity of the hidden dangers which others have fallen into.—It has been fatal to favourites, to judges, to lords, and to kings, and will certainly be so even to parliaments, if they descend to abuse the people they represent. The imprisoning these five gentlemen had neither reason, law, pretence, nor policy in it. It had no reason in it, because they had offended against no law, either of reason, or the nature of the thing. It had no law in it, because they had no legal power to commit any but their own members. And I am of the opinion, they are convinced there was no policy in it, for there is seldom much policy in doing that publicly, which we know we shall be ashamed of.

The not proceeding against them afterward, showed they were either ashamed or afraid; had they been in the right, there could be no reason to fear: and if in the wrong, they had all the reason in the world to be ashamed. To commit five gentlemen to custody, for petitioning them to do what they really knew they ought to have done, it was the most preposterous thing in nature: To punish for humbly petitioning! it is nonsense in itself. God himself permits the meanest and most despicable of his creatures to remind him as we may say, of their wants, and petition for his aid. The most contemptible beggar is permitted to be importunate for relief, and though the law is against him, we are not affronted at it. But to resent the representation of their country, and imprison gentlemen who, at the request of the freeholders of a county, came, under the express protection of an act of parliament, to deliver a petition; it was the most ridiculous inconsistent action that ever the parliament of England was guilty of; and, with submission, I think the best action the same house can do, at their next meeting, is to vote that it should be razed out of their journals, and never be made a precedent for the time to come; upon which condition, and no other, the nation ought to forgive it them.

The Act of 13 Car. 2, to assert the Right of the subjects petitioning, is a sufficient authority for any one to quote, and those that pretend to call this an illegal act, must first trample down the authority of that act of parliament. Let this act justify me in saying, that to imprison Englishmen for petitioning, is illegal, and a dishonour to English parliaments, 'Legion' Article 3rd.

But, say the lame excusers of this eccentric motion of the house, this was a factious thing contrived by a few private insignificant people of no value, and the matter of it is saucy and impertinent.—First, had it been a Petition of the meanest and most inconsiderable person in England, and that single by himself, provided he were a freeholder of England, he had a legal right to speak his mind, for that same reason from whence the commons in parliament claim a freedom of speech, gives every commoner a freedom to speak to the house, since every freeholder has an equal concern in their debates, and equal power in deputing them to sit there. But because this right unlimited might be tumultuous and uneasy, therefore the method how we shall do it, is circumscribed for decency's sake, that it shall be done by petition, and that petition shall be presented so and so, and by such a number, and no more: but that it should not be lawful to petition, no tribunal, no court, no collective or representative body of men in the world ever refused it; nay, the inquisition of Spain does not forbid it; the divan of the Turks allows it, and I believe if Satan himself kept his court in public, he would not prohibit it.—But besides this, the fact is not true: As for it being contrived by a few people, let the impartial relation here given, answer that ridiculous untruth, unless you will account the county of Kent a few, for certainly eleven parts of twelve of the whole county, and now of the whole kingdom, approve of it.—Nor has the reproach upon the persons presenting it, more of truth, unless gentlemen of ancient and illustrious families, whose ancestors have been known for several ages to be men of of honour and estates, allied to several of the nobility, and now known and valued by the whole country, both for their considerable fortunes, as well as personal merit, unless I say such men are to be accounted private and inconsiderable, the charge cannot be true: To such I shall only say, that the

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ancestors of these gentlemen were members of ancient parliaments, and of such parliaments as would have been ashamed of committing such an absurdity, as to imprison the freeholders of England for a peaceable Petition.

As to the matter of the Petition, and which some people say was a banter, the turning their loyal Addresses into Bills of Supply. The gentlemen ought to have had liberty to explain themselves, which if they had done, I am of the opinion that it would have been to this purpose, that they thought it was proper 'the house should speedily supply the king so with money, as that he might be enabled to defend our Protestant neighbours from the encroachments of France;' and not to lose their time in addressing the king in matters of less moment.—I shall conclude with this short animadversion by way of remark, and let all men judge of the justness of the observation, 'That as this was the first time that ever the English nation petitioned to be taxed, so this was the first parliament that ever addressed the king to take care of himself, and defend himself against his people.'

ADDENDA.

Some book-learn'd fools pretend to find a flaw,
In our late senate Votes for want of law,
And insolently say the Men of Kent
Were rudely handled by the parliament.
Knowledge of things would teach them every hour,
That law is but an Heathen word for power.
Might, right, force, justice, equity,
Are terms synonimous, and must agree;
For who shall e'er the argument confute,
Where power prevails, and no man dare dispute.
Nature has left this tincture in the blood,
That all men wou'd be tyrants if they cou'd,
Not kings alone, not ecclesiastic pride,
But parliaments, and all mankind beside.
All men, like Phaeton, would command the reins,
'Tis only want of power that restrains.
Then why should we think strange the parliament
The people's late Petitions shou'd resent:
'Tis fatal to tyrannic power, when they
Who shou'd be ruin'd, grumble to obey:
And tyrants never can complete their reign.
So long as injur'd subjects dare complain;
If they do not their first address withstand,
What now they supplicate, they'll soon command;
By first suppressing early discontent,
They aim'd the consequences to prevent,
For well they knew that should the nation try,
To ask once more, they durst not twice deny.
England has this one fate peculiar to her,
Never to want a Party to undo her,
The court, the king, the church, the parliament,
Alternately pursue the same intent,
Under the specious term of Liberty,
The passive injur'd People to betray:
And it has always been the People's fate,
To see their own mistakes when 'twas too late,
Senseless of danger, sleepy and secure,
Till their distempers grew too strong to cure;
Till they 're embrac'd by the approaching grave,
And none but Jove and miracles can save.
In vain bold heroes venture to redeem
A People willinger to sink than swim:
If there's a Brutus in the nation found,
That dares Patrician usurpation wound,
He's sure to find an ignominious grave,
And perish by the People he would save.
Such are by virtue signaliz'd in vain,
We'll own the merit, but abuse the men.
Marius sav'd Rome, and was by Rome despis'd;
And many a Russel we have sacrific'd.
Then who for English freedom would appear,
Where lives of patriots are never dear,
And streams of generous blood flow unregarded there.
Posterity will be asham'd to own,
The actions we their ancestors have done,
When they for ancient precedents enquire,
And to the Journals of this age retire,
To see one tyrant banish'd from his home,
To set five hundred traitors in his room.
They'll blush to find the head beneath the tail,
And representing, treachery prevail:
They'll be amaz'd to see there was but five,
Whose courage could their liberty survive,
While we that durst illegal power dethrone,
Should basely be enslav'd by tyrants of our own.

N° XVIII.

JURA POPULI ANGLICANI: or the Subject's Right of PETITIONING set forth, occasioned by the Case of the KENTISH PETITIONERS. With some Thoughts on the Reasons which induced those Gentlemen to petition: and of the Commons Right of Imprisoning. Printed in 1701.*

Nulla Veritas ullâ de re ita diserte cavere potest,
Ut malitiosa callidita locum fraudi non inveniat.

ULPIAN, Of the Laws of his Time.

What discouraged the Author in his work.—Imprisoning the Kentish Petitioners not the act of the whole House.—House of Commons not Representatives of the whole People of England.—Names of Whig and Tory considered.—Tory Party that which governed in the House of Commons.—They now called Tories, were formerly Whigs.—Their practices dangerous.—England has most reason to be apprehensive of the growing power of France.—

* State Tracts published during the reign of William 3, vol. iii. p. 257. See Proceedings of the House of Commons, May 8, 1701.

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The Kentish Petition.—The Presenters imprisoned by the House of Commons.—House of Commons Power as to Imprisonment.—People's Representatives have no Power above Law.—The Power assumed by the House of Commons an Invasion of our Legal Rights.—Their Power of Imprisonment extends only to their own Members.—Kentish Petitioners not imprisoned for any fact against Law.—House of Commons no Court.—Subject's Right of Petitioning considered.—Act about the People's Right to Petition.—Kentish Petition warranted by the Law of the Land.—Resolutions in the same concerning the Duke of York.—Right of Petitioning why run down.—Col. Sidney's Opinion of a Parliament.—Lord Coke's Account of the old Constitution of Parliament.—It cannot tend to the Destruction of the Constitution to advise the Delegates.—The Reasons of the Petitioners in their so doing.—War violently opposed by the ruling part of the H— of C—.—Reflections upon it.

IT is a melancholy reflection to consider how universal a dissatisfaction the management of the house of commons has this session caused in the people of England. Among the many who arraign their proceedings, there are none who make not the treatment of the five gentlemen who presented the Kentish Petition, one article of impeachment against them: and the most intelligent part of the people have been free in saying, That the punishment of them plainly demonstrates very extraordinary designs, and must be allowed, even by men of candour and sense, to give just grounds for all the jealousies and suspicions that have been entertained.—It is not my design, in handling this subject, to use any artifices or false colours, to foment such jealousies as these, but to discharge a duty which I owe the community, and to prevent an intolerable sort of slavery which may be brought in upon us, if care be not taken to fence against such acts of power, and infringements of our liberty, by shewing the injustice and illegality of them.

Though the task be very grateful, and what I could not but undertake, when I consider how necessary it was to run down that power, which has been assumed to destroy the freedom we are entitled to by the law of nature, and municipal laws of this land; yet two considerations there are which did not a little discourage me in the undertaking.—First, It was no small check to me to consider how invidious a thing it is to censure the proceedings of that great and honourable assembly the house of commons. The people of England generally call them their Representatives; and so far do they think themselves interested in what they do, as to espouse their acts for their own, and reckon any censure of them to be an arraignment of the whole people. He therefore that will be so hardy as to attack such an authority as this, may well be under some concern at the undertaking, and had need in the very entrance to remove a prejudice which is enough to defeat his sincere endeavours to serve the public. The apology which I shall here make for myself, is to desire those who are so tender of the honour of their Representatives, to consider,—First, That he who uses a freedom in speaking against the proceedings of the house of commons, is not necessarily to be supposed to speak against the whole house, much less the whole people of England. It is true, indeed, when a question is carried, though it be only by one voice, it is as much the act of the whole body, as to any force and operation in our constitution, as if it had the suffrages of every individual person. Will any one say that such a resolution, in the debates of men without doors, concerning its being reasonable or unreasonable, is as much to be reckoned the act of the whole body, as if it had the chearful suffrages of them all? To speak a little more plainly, let us consider a question at the very time of division, with the voices equal on both sides. In this case, men reasoning and speaking their minds freely concerning either side of the question, cannot be said to be guilty of any offence, or utter any reflection against the people of England, or their Representatives, because they whose suffrages he condemns are no more than the other side whose proceedings he justifies. Afterwards, when such an equal division as this is decided by the Speaker, it must be owned that his voice makes it the act of the house: but what in reality does such a person do? does he any more than censure that one member of the house? or can his reflections reach any more of the people of England, than those who chose him for their Representative? If in such a case the Speaker should happen to be a man of crooked designs, notorious for falseness and unsincerity, as well as other immoralities, and engaged in all the interests of a party, suspected and feared by far the greater part of the people; would it be possible for human nature to have that reverence which some contend for, for such an ordinance as this? or ought he in justice or good sense to be censured as an evil man, and one who boldly reviles the people of England, who uses some freedom in speaking against a resolution which owed its sanction to such a corrupt voice? this shews us what opinion we are to have of those who are free in censuring such resolutions when they are carried by greater majorities. If a matter should happen to be pushed on by the violence of a faction, wherein the ringleaders are men whom the people have a long time thought enemies to the government under which they live; if the very fact itself carry in it very broad signs of evil intentions; if it be contrary to the natural rights of the people, and laws of the land, it is not the majority of the house will be able to reconcile men to it: and if upon the account of its oppressiveness and illegality, the voice of the people be every where against it, it will be a solecism to say, That he who in defence of the people's rights, uses a freedom in speaking against it, arraigns the justice of the whole people of England, and wounds

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their honour through the sides of their Representatives.—It is not to be wondered that the imprisonment of the Kentish Petitioners should have the voices of the major part of the house of commons, when (besides the great inclination discovered by the Spe—er) sir Ed—rd Sey—r, sir Bar—w Sh—er, Mr. J—n H—w, Mr. Ham—d, Mr. Har—rt, and others, pressed violently for it. What so many leaders in the party contended earnestly for, could not but have the approbation of those who voted as constantly with them, as if they thought it their both duty and interest so to do.

But though that was the act of the greater part, it was not of the whole house of commons. All those worthy and honourable members, who have always firmly adhered to his majesty's interest, who have associated for him, who have given perpetual demonstrations of their enmity to France, and the abdicated family, and heartily desired to have all those things done which the Kentish gentlemen petitioned for; were averse to this, as they were to other fatal proceedings, which yet they had not power to prevent. If then a great and honest party in the house, and in a manner the whole people without doors, except the Papists and Jacobites, inveigh against the imprisonment of those gentlemen, as a notorious infringement of the liberties of the people of England: this, I hope, will be a sufficient apology for me, and secure me from the censures of all those who are apt to call such an undertaking as this an impudent arraignment of the justice of the house of commons, and of the whole people of England.

By way of further justifying myself as to this particular, I must desire those people to consider that the house of commons are not the whole people of England's Representatives. It is very evident that the Representatives of the people are those to whom, when they entered into society, they resigned up that power which they had in the state of nature, to punish offences against the law of nature, in prosecution of their own private judgment, and authorized to make laws for them, which are the rules to determine all the controversies, and redress the injuries that may happen to any member of the commonwealth. Thus the society, or, which is all one, the power legislative, are the only representatives of the people. The commons may be said to represent those freeholders, citizens and freemen who chose them: but what are they to the whole body of the people, who are represented in the political state, and are intitled to all the benefits and advantages of it? This shews us what mistakes those men run into, who violently contend for an extravagant power in the house of commons, because they think this is to assert the right of the people of England in the hands of their representatives.

It will be allowed me, I believe, in this favourable juncture, to say, that the lords, who have throughout this session spoken the sense of the great bulk of the people of England, and have with great wisdom, temper and conduct, done all that was in their power to serve their country, and prevent its ruin, are, as they are a part of the legislature, which alone prescribes laws and rules to the community, no less representatives of the people of England than the commons are. The services they have done the public will, I hope, be gratefully remembered by the people, and help to convince them that they have erred greatly, and built our happiness and security upon too narrow and dangerous a bottom, who have so violently and unreasonably contended for the power of the commons, and would derive all those advantages from them which flow from the whole constitution. The regard which the people of England have had for that state, which in a mistaken notion they called their representatives, may be of very fatal consequence in breaking the balance of civil power, and shewing the grand enemy where he is to make his attacks, to subdue a people whom his arms cannot hurt. —The brave Lacedemonian matron renounced her own son when he fled from battle, and forgot the services which he owed his country. If the house of commons were the representatives of the people of England in that sense which some contend for, ought we to have any great veneration for them, if they should quit the manifest interest of their country, and utter a sense quite different from that of the people? If any think they have done so in the matter now in debate, they will allow this to be some apology for censuring what they have done.—There is, as I said, another consideration which discourages me from publishing my thoughts on this subject; that is, the censure which I shall incur of serving the designs of a party. This is the grand artifice which those who have brought themselves under the suspicion of their country, have made use of to support their faction. To brand their antagonists with the name of Whigs, is the way they have taken to make them desert the service of the public, and list themselves under their banner. As this has been their management in other cases, so was it particularly remarkable when the Kentish Petition was presented to the house. Sir E. S——r, to bring an odium upon it, and make it a party business, nibbled a little at a particular name, and was pleased to say it smelt of Forty-one. It was his remarking the name that gave the gentleman who bore it an opportunity to say, that he was very well known to be of a family, which was remarkable for opposing the usurpations of the commons.

Since I find what use is made of those old names of Whig and Tory, how inconsiderate people are imposed upon by them, and seduced from the real interest of their country; before I discover of what party I am, which I will do, to let my reader fairly see how far he ought to be prejudiced against me, I will crave leave to consider those names, with the different significations they have borne, and examine whether those that make use of them to serve their cause, can justly apply them to the factions among us.—A Tory, if we consider the

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most moderate acceptation of the name among those who wore it, was one who loved the English monarchy and hierarchy, had a religious regard for all the rights of them both, which he took to be of divine institution, and abominated all those factious spirits, which decried the authority, or endeavoured to infringe the power of either. The generality carried the notion much higher, and would allow none to deserve that name, but such as were against having the king's power fettered by laws, or his will any way governed or restrained by the humours of his subjects. The Whig has inlarged his idea, and taken some other things into it. In the account he gives of a Tory, he tells us, that if he be for kings and bishops, they must be such kings and bishops as he likes: That in the late reigns he was not only for the *Jure Divino* right of our kings, and for submitting all our laws and liberties to the royal will and prerogative, but was for raising the exorbitant power of France, and destroying Holland, in compliance with the desires of our princes, who could not otherwise make their government arbitrary, and introduce Popery.—A Whig, as he is described by a Tory, with respect to his inclinations to civil government, is one who hates the power and prerogative of kings, and is perpetually raising factions in the state, in order to subvert monarchy, and set up a popular government: when considered with respect to the ecclesiastical state, he is represented an enemy to the hierarchy, one who would destroy the order of bishops, as well out of hatred to the order itself, as because they are the supporters of the monarchy. Upon this account he is further represented to be a lover of the Dutch, because they are enemies of kingly government, and favourers of those factious male-contents. A Whig, if you will take his own character and description of himself, generally speaking, tells you, that he is for kingly government, and the church as by law established; that he prefers the English constitution to any other in the world; that those reflections were craftily and slanderously thrown upon him by the ministers and vassals of the last reigns, because he opposed their endeavours to bring in an arbitrary power, which was to be according to the French model, and must be accompanied with Popery; that he is indeed a lover of the Dutch, as are all the people of England, unless it be the French party, but not out of any factious design, or respect for their sort of government, but because they have been good friends and allies to us, have steadily and bravely withstood the growing power of France, and are a great bulwark to the Protestant religion and liberty of Europe.—These are the shortest accounts we have of the ideas that belong to those old party-names, from the descriptions of the opposite parties. Time, the great discoverer of dark and mysterious designs, has let in some light to help us discern who are in the right; and from the management of affairs in this present juncture, we may easily learn whether those who make use of these names to serve their cause, can justly apply them to the factions among us.

The Tory party, as they affect to be called, is that part of the house of commons which has governed this session, and directed all the proceedings which have alarmed the people of England, and made them every where exclaim against the management of the lower house. If we consider the men, and compare what they have done with the pretended principles of their party, it will hardly seem odder to see sir Ed. Sey—r bring in a bill to prevent bribery, or Mr. J. H-w exclaim against exorbitant grants, or sir Ch. M—ve violent either against grants or a Standing Army; or to find them, who discovered a plain inclination to quiet France in possession of all the Spanish dominions, quarrel at the Treaty of Partition for giving France too much, than to see them assume the name of Tories. Is not R—H—a ringleader in this Tory party? Is not his br—er E. a leading member? Does not he attend all ordinances, and as constantly every week-day frequent the service of the church, for his is a church-party, in St. Stephen's chapel, as he does the Conven—cle every Lord's-day? Are not the F—s, W—tons, St. J—n, H—y of Wey—th, B—ston, H—n, R—yl, and others of that leaven, members of this fraternity? It is methinks hard to say how a faction blended with such a number of names noted for their inveteracy to the true Tory-principles, can be called a Tory party. Nothing sure but meré necessity, and want of men to serve some great design, could make them who pretend to be genuine Tories, and consequently must hate a comprehension, and love to keep their party pure and unmixt, herd with a set of men so odious to them.

But upon second thoughts the wonder will not seem so great; whatever difference might formerly have been between them, it will upon a fair examination now appear, that there is a great agreement in their principles, and that those who keep up their faction, by retaining the name of Tories and running down Whigs, have nothing but the bare name of their party, and are that very thing that they run down. This will be very evident to any one who will but take a short view of what they have done, and compare the loyalty of their behaviour with their loyal principles.

Formerly the Tory doctrine was, that the king was the breath of our nostrils, that we failed in our allegiance to him, and deserved not the name of loyal subjects, unless we valued his life more than our own, and would do all that lay in our power to preserve him and his government, by shewing an inclination to destroy his enemies.—Is this the temper and spirit of our present Tories! Are not sir Ed. Sey—r, sir Ch. Mus—ve, and forty more, at this very time members of the house of commons, and of this Tory party, who when the conspiracy against the king was discovered, and an army lay ready to invade us, refused the Voluntary Association, which was reckoned the best expe-

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dient to preserve the king's life, and prevent the ruin of this kingdom? Formerly Tories reckoned it an act of duty and loyalty to repose an entire confidence in the king, and to desire that he might be gratified, as with every thing else, so particularly with such an army as he desired. And in the late reign, when the army consisted of nineteen thousand men, and the king had no other occasion for them, but to terrify and afflict his own subjects, sir Ch. Mus—ve was pleased to say in the house of commons, it was a deplorable thing that the king should have no better army. Was it not that good old loyalist, and the men of that party principally, who reduced his present majesty to the allowance of seven thousand men; and were the cause of all the calamities that have been occasioned by it? In the reign of king Charles the Second, when that gentleman had grants from the king, it would have seemed no less a prodigy in these kingdoms, to see a Tory House of Com—ns offer to intermeddle with the king's grants, as they have done, and make it an article of impeachment against a great minister to take a grant from the crown, than to see a church-party, who have told us that the king is Christ's Vicegerent, and head of his church here upon earth, and that he has an uncontroulable right to dispose, as he pleases, of those fees with which the crown has endowed the church, offer to destroy the king's right by bringing in a bill to prevent the translation of bishops from one see to another. This bill designed no great favour to the king or the hierarchy, yet sir J. P—ton, who brought it into the house, must be thought a loyalist and true son of the church, because he tells churchmen that he is so. Though it was a bill for the better securing the Protestant religion, yet there are but few Protestants, I believe, concerned that it is adjourned, as the necessary methods for securing our religion are, to another session of parliament: if it be the next session tacked to a money-bill, as the Jacobites say it will be, then we shall see the Protestant religion as well secured, as some people would have it, who now turn the methods of securing it into jest and ridicule.

I could heartily wish there were no other instances, but these I have here mentioned, of the ill treatment which both the monarchy and hierarchy have had from this loyal church-party, as they would fain be reputed, whose practices of late have been the plain reverse of what they formerly professed. Have not they arraigned the king's power in making treaties, which was never disputed in any former reign, no not by those demagogues in the reign of king Charles the 1st, whose memories and practices they pretend to hate? Have not they pulled down one principal pillar and support of the monarchy, by creating a distrust between the king and his people, by representing men unfit for the service of the public, and excluding them from having any thing to do in the election of their representatives, who are in places of trust under the king? Have they not destroyed our very constitution, and made our government plainly popular under their sole management and direction? Is it not a popular government, and a very intolerable one, where they have usurped the power of the king and the lords, and broken in upon the rights of the people, by taking the execution and legislation upon themselves, and punishing contrary to law? Have not they usurped the power of the king both executive and legislative, when they are grown to that exorbitancy of power, that they expect he will do whatever they require of him, though it be to punish some who have long toiled in the support of his government, and turn out others from places of public trust, who have appeared with a warm and extraordinary zeal in his and their country's service; when they take upon them to censure and condemn what he does, though it be profitable to us and our friends, and his undoubted right and prerogative to do it; when to prevent the mischief and confusion in which his enemies would involve his kingdoms, he has been forced to give the royal assent, where he knew it would not only hurt many of his friends, but a very great number of his good and loyal subjects, and be of very ill consequence to his affairs abroad? Have they not invaded and usurped the power of the lords, by endeavouring to destroy their jurisdiction, by tying them to new rules and methods in their judicature, and forcing their assent to laws by tacking of clauses, and leaving with them, together with the bill, all the ill consequences that should attend the rejecting it; which is plainly threatening them with the wrath and resentment of the nation, imposed on and incensed by them? Have they not been highly injurious to the people, and invaded their rights, by taking the execution of the laws upon them, which belongs not to their province, and imprisoning such numbers of their fellow-commoners, as they have done this session?

It must be very extraordinary assurance that can make a party, which has not only thus arraigned the actions of his majesty, and been a constant clog upon the wheels of his government, but has likewise usurped his power, and brought in an arbitrary popular government, assume the name of loyalists, and call others turbulent, seditious republicans. If we would judge right between the two contending parties, we ought to consider their actions, and not the names and characters they themselves assume, or give one to another. If it be evident that the Tories have been highly prejudiced against his majesty's government; if they have usurped upon the crown, and deprived it of many of its just rights, and the Whigs have born a constant affection to the king, and endeavoured to continue him in possession of all his rights and prerogatives: if in settling the succession in the Protestant line, Tories have not only discovered a perfect aversion to the act, and used artifices to

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clude it, but likewise framed that new Bill of Rights which was not contrived to recommend the crown, and make it amiable to the successors; and the Whigs on the other hand shewed themselves both eager to have the crown settled, and unwilling to have such a breach made in the prerogative; then it will be evident that the Whigs loyalty is greater than the Tories, or that the object they have placed it upon makes it more agreeable to us, and apter to promote our happiness and tranquility. If Tories be of those loyal principles they boast of, and the object be the abdicated family: if it be this loyalty of their principles, and the regard they have to the interest of that family, that has made them uneasy to the king, and downright republicans under his government, true Englishmen will find but little reason, as things now stand, to admire their principles or run into their party. The case in short is thus: To this loyal Tory-party (as they would be esteemed) we find all those attached, whose principles imbibed in the late reigns, make them firmly adhere to the interest of king James; here we find all those in a manner who were against the abdication, recognition, who would not allow his present majesty to be rightful king, and refused to enter into the Association to preserve him and his government: in this party are all those likewise, whom either the love of money, or of the St. Germain family, or Popery, has reconciled to the French interest. It is most certain that there is not a man in the house engaged in any of these interests, who is not one of this party: and as certain it is that all the Papists, friends of king James, and the French king, without doors, applaud their proceedings, and own that they are fairly represented by them.

From this account then it will appear that the parties are truly and properly to be distinguished into those who are for the Jacobite or French interest (for it is impossible to separate them) and those who are for our present settlement, or the true interest of England. This being the distinction of parties, I shall as cheerfully and readily acknowledge myself of a party, as St. Paul owned himself an heretic after the way which his enemies called heresy. If cunning men of the opposite faction be able to carry their management much further; if by a crafty use of the names of Church, Tory and Whig, they can impose on weak men, and keep them from being of this party, that is, of the number of those who are for the interest of England and the Protestant Religion, and haters of French power and Popery, we may thus be insensibly drawn into the snares laid for us, and bring upon ourselves all the calamities we are afraid of. This may be: and I thing it is manifest to considering men, that the enemy, even this session, had made no small advances towards gaining his ends, if some men of the Church had not had more strength of reason to rescue themselves from the jealousies that were craftily and falsely suggested, and better notions of the true interest of the Church and dangers of the public than others. The alarm given was, That the monarchy and church were to be destroyed by republicans and fanatics. The bishops saw where the real danger lay; that they were the thieves, who cried 'thief' first; that those whom the Tories called Republicans had sufficiently demonstrated by their behaviour to his majesty, how little they deserved that name which their enemies had insidiously put upon them; that the Republicans to be dreaded by them, were those who sided with the rankest of that sort, and ran into all the excesses of anarchy and fiction against the present government, in order to dispose things for another Revolution. They saw into what power they were grown, how they had usurped upon the king, how they had bullied the lords, and endeavoured to destroy the jurisdiction of that house, with which they knew that all the power and authority of their order must determine. And as in the lower house of parliament they saw the rights of the king and the jurisdiction of the lords invaded, and such things done by those pretended royalists, as no one formerly could have mentioned without coming under the ban of the party: so in the lower house of convocation they saw the like invasion of their own rights by men of the same leaven; and a power claimed altogether inconsistent with the presidency of the archbishop over his synod; a power absurd in itself, repugnant to the synodal rights enjoyed and exercised by metropolitans and their comprovincials in all the purer ages of the Church, and such as these gentlemen would have called downright rebellion in former times, when they thought it their interest to be, what they now call themselves, but are not, true sons of the Church. The archbishop, and those his worthy brethren (to whom God has given understanding as well as integrity suitable to the necessities of these times) see where the springs of these unhappy differences are: They know what care is taken, and for what design, to traduce the governors of the Church, as enemies and betrayers of it, and to make zealous churchmen and others believe, that there are some men who are better patrons, and truer friends of the church than the bishops are. Time will shew these men their error, and take off that veil which yet lies over their eyes. They have shewn the Church of England, by their behaviour this session, and adhering to those who are plainly in the interest of England, and for our constitution, what their notion is of parties. By their management, which has gained them the universal esteem and applause of the people, they have set things upon the largest and best bottom to preserve the church and state of England: They who advise other methods, and are for enlarging the bottom, by taking in persons who have hitherto appeared disaffected to the government, recommend men to the king, who would be less hurtful to him, if they appeared armed against him in the field: and take a ready and effectual method to bring in upon us French slavery and Popery, which we

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shall yet be able to prevent, if the people of England will regard their true interest, and be careful to bring those into credit and power, who love their country, and cannot be reconciled to the interest of our enemies.

JURA POPULI ANGLICANI, &c.

THE death of the king of Spain, and the alteration made in the affairs of Europe, by the settlement of his dominions, has caused a general consternation in all those countries, which before had any apprehensions of danger from the growing power of France. Among them all, none has more reason to be alarmed than England, since, when we consider our situation, the affairs of commerce and religion, and the interest not only of the abdicated family, but of their great protector likewise, among us; we must allow that no other nation (unless perhaps we except Holland) is more immediately affected, and likelier to feel the first dire effects of this unhappy conjunction—This the people of England are generally sensible of; and it is to this sense of their danger, and the suspicion they have entertained of a much greater inclination to continue than destroy this union of power, that we are to ascribe their discontents, and the resentments they have expressed against their representatives, to a degree never before known in any age of our government.—It is in the midst of these clamours that echoed through the kingdom, and the universal dissatisfaction of the people at the proceedings of the house of commons, that the five Kentish gentlemen presented this following Petition, agreed to by the gentlemen, justices of peace, grand jury, and other freeholders, at the general quarter-sessions holden at Maidston, the 29th of April, in the 13th year of his majesty's reign.

'We the gentlemen, justices of the peace, 'grand jury, and other freeholders at the ge- 'neral quarter-sessions at Maidston in Kent, 'deeply concerned at the dangerous state of 'this kingdom, and of all Europe; and consi- 'dering that the fate of us and our posterity 'depends upon the wisdom of our representa- 'tives in parliament, think ourselves bound in 'duty humbly to lay before this honourable 'house the consequence in this conjuncture, 'of your speedy resolutions, and most sincere 'endeavours to answer the great trust reposed 'in you by your country.—And in regard, 'that from the experience of all ages it is ma- 'nifest no nation can be happy without union; 'we hope that no pretence whatsoever shall 'be able to create a misunderstanding between 'ourselves, or the least distrust of his majesty, 'whose great actions for this nation are writ 'in the hearts of his subjects, and can never, 'without the blackest ingratitude, be forgot. '—We most humbly implore this honourable 'house to have regard to the voice of the 'people, that our religion and safety may be 'effectually provided for; that your loyal ad- 'dresses may be turned into bills of supply, 'and that his most sacred majesty (whose pro- 'pitious and unblemished reign over us we 'pray God long to continue) may be enabled 'powerfully to assist his allies before it be too 'late. And your petitioners shall ever pray, '&c.'

'Signed by all the deputy-lieutenants then 'present, above twenty justices of the peace, 'all the grand jury, and other freeholders then 'there.'

This Petition was offered to the house on the 8th day of May; the gentlemen who delivered it, and owned it at the bar of the house, were Mr. Wm. Colepepper, Mr. Thos. Colepepper, Mr. D. Polhill, Mr. Justinian Champneys, and Mr. Wm. Hamilton; for so I find all their names written in the votes, without the addition of esquire, though four of them were justices of the peace, and two deputy-lieutenants of the county. This was thought by some to be prudently contrived, to lessen the credit of the Petition among people without doors, and to make others less eager to follow the example of those gentlemen.—Concerning the Petition the house came to this Resolution, 'That it was scandalous, insolent, 'and seditious, tending to destroy the consti- 'tution of parliament, and to subvert the es- 'tablished government of this realm.' The five gentlemen they ordered to be taken into the custody of the serjeant at arms. The treatment they had from him was very singular, and shewed that they were under the high displeasure of the house; for when he accidentally saw two of them talk together, he drew his sword upon his deputy for permitting it; and when upon one of those gentlemen's demanding a copy of their commitment (which they reckoned they had a title to by virtue of the Habeas Corpus Act) and his refusing it, the gentleman said he hoped the law would do him justice, his reply was, that he cared not a fart for the law. The reverence of the law is fallen very low indeed, when one who has the honour of being a servant to the house of commons, can presume to make so bold with it. In his custody they continued till the 15th of May, when he (contrary likewise to the Habeas Corpus Act) by an order of the house of commons, and a warrant issued out from the Speaker, delivered them prisoners to his majesty's prison at the Gate-house, where they continued to the end of the session. Besides this severe punishment inflicted by themselves, that they might shew their utmost resentment, and proceed to all the severities in their power, they at the same time resolved upon an address to his majesty to put them out of the commissions of the peace and lieutenancy.

The imprisoning of those gentlemen is the fact which comes under my consideration. In order to handle this subject fully, it will be necessary I consider these things: 1. What power the house of commons has to imprison. 2. The subjects right of petitioning. 3. What reasons the gentlemen, justices of the peace, and grand jury of the county of Kent, had to offer that petition when they did.

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First, I am to consider what power the house of commons has to imprison. Though this enquiry may by some be thought needless in this place, since a bare setting forth the subjects right to petition, will be sufficient to shew us what we are to think of the imprisoning of the Kentish petitioners; yet the best way, I think, to enable us to make the truest judgment concerning this fact, will be to examine what provision the laws have made for the liberty of our persons, and how far we are subject to the will of the house of commons. Such an enquiry would be highly necessary at this time, though the treatment of the Kentish petitioners had given no occasion for it. Great numbers of other subjects have been imprisoned by them this session, to the horror and amazement of all those who know the rights and liberties of the people of England, and therefore cannot but be concerned to see them so miserably infringed. To prevent such acts of power for the future, it is necessary we shew that they are mere acts of power, and manifest encroachments on the liberties and rights of the people. If there be any who still retain the old fond opinion they had of the peoples' representatives, and think our liberties are sufficiently provided for when in the hands of such guardians, and that we can suffer no great inconvenience by any power which they are intrusted with; I would desire them to enquire how Mr. Buckley (committed for shewing the letters which he received from sir Edw-rd Sey—r and Mr. Colson) and Mr. Hassam (committed on Mr. Samuel Shepherd's account) were treated by the serjeant at arms in their confinement; and consider whether such severities are not sufficient to convince them, that the people's representatives (as they are called) are not to be complimented with more power over the liberties of the people, than our laws and constitutions do allow them. Do not the fierce and rigorous prosecutions which we have seen make it evident to us, that men can fall under no resentment, no rage or malice more outrageous than that of a party? Do not we see how regardless men can be of their reputation, what little and unbecoming artifices they can stoop to, when intent upon breaking an opposite faction? Is it fit then that in such a disorderly and divided state, men should be intrusted with excessive power, who are inclined to make so ill use of it? If by our constitution the house of commons were allowed a power to restrain the freedom of our persons as they should think fit for the good of the community, the exercise of that power, however rigourous and severe, would (if it were free from the bias and influence of parties) be as patiently borne from them as any other hands whatsoever. But if by a lawless and arbitrary power they invade that freedom which an excellent constitution intitles us to, it is impossible that a regard for the persons who afflict us should reconcile us to the suffering. This my business here to discover whether they have done so, or no. The properest method to do this, and to satisfy this first enquiry concerning their power to imprison, will be, first, to examine how far our laws have secured the liberty and freedom of our persons. Secondly, to examine whether the power exercised by the commons be not repugnant to the laws, and plainly destructive of our constitution.—As to the first enquiry, it is evident that both the common and statute law of this land, as they suppose men to have an inheritance in the liberty of their persons, so have they taken all imaginable care to secure them in the possession of this inheritance. 1st. As to the common law, we know what favour it shews to the liberty of our persons. This was so great, that formerly she suffered none to be imprisoned, but for force, and things done against the peace. Force indeed she, being the guardian and preserver of the land, could not but abhor; those therefore that committed it, she accounted her capital enemies, and did subject their bodies to imprisonment: In all other cases she protected them from this restraint. This was our constitution in the time of the Saxon kings, and a long while after, till the 35th year of Hen. 3, who was the eighth king from the conquest: Because bailiffs would not render accounts to their lords, it was then enacted by the statute of Marlebridge, cap. 24, that their bodies should be attached. Had this law been a little unreasonable, it is no great wonder it should pass at that time, considering the weakness of the king, and the power of the lords, in whose favour it was made. We may remark concerning it, that the first act to restrain the subjects liberty, was procured by those lords who forced a charter from the king to confirm their own liberties. Three reigns after this, 23 Edw. 3, 17, because men took no care to pay their debts, it was provided by another statute, that their bodies should be attached. Before these statutes, as I said, no man's body was subject to be taken or imprisoned otherwise than as aforesaid. As the moderation of our ancestors, in not enacting any such laws in all the ages that went before, demonstrates the great regard they had for liberty; so did the course and practice of the law afterwards fully shew how great a punishment they reckoned to have it restrained, as by those statutes.

Before the reign of king James the first, it was allowed, that he who died in prison discharged the debt, how great soever it was, for which he was committed: The reason was, because they thought imprisonment a punishment so great, that no other satisfaction ought to be demanded after it. It was the opinion they had of the greatness of the punishment, that made our merciful forefathers bear with men in using such acts of force to enlarge themselves, as are not now allowed. The statute *de frangentibus Prisonam*, made in the first year of Edward the second, enacts, 'That no one shall undergo judgment of life or members, for breaking of prison alone, unless the cause for which the person is imprisoned require such

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a judgment.' And the Mirror of Justices, which was writ before this king's reign, where it reckons up the abusions of the common law *, tells us, 'That it is an abuse to hold an escape out of prison, or the breach of the gaol, to be a mortal offence; Forasmuch as one is warranted to do it by the law of nature.' All this cannot be wondered at, when we consider how great an evil imprisonment is reckoned, and that it is in law called civil death: *Perdit domum, familiam, vicinos, patriam;* He loses his house, his family, his wife, his children, his neighbours, his country, and is condemned to live among wretched and wicked men. For this reason it is that as a man, if he be threatened to be killed, may avoid a feofment †, gift of goods, &c. so it is, if he be threatened to be imprisoned, or kept in duress; that being reckoned to be a civil death, any speciality or obligation made by him is null in law: and he may avoid the action brought upon such speciality, by pleading that it was made by duress.

As the common law has shewn a great regard, so, secondly, has the statute law of this land abundantly provided for the liberty of our persons. This is evident from many acts of parliament: The first I shall take notice of is the Grand Charter of the Liberties of England, first granted in the 17th year of king John, and renewed twice in the reign of king Henry the third. By that charter it is provided, 'that no freeman shall be taken or imprisoned, unless it be by judgment of his peers, or by the laws of the land:' that is, by jurors who are his peers; or by due process of law. That this is the meaning of those words *per legem terræ*, or law of the land, will plainly appear from divers other statutes which explain those words. In 25 E. 3. c. 4. we find them thus explained in these words: "Whereas it is contained in the Great Charter of the franchises of England, that no freeman be imprisoned, or put out of his freehold, nor of his franchise, nor free custom, unless it be by the law of the land, it is accorded, assented, and established, that from henceforth none shall be taken by petition or suggestion made unto our lord the king, or to his council, unless it be by indictment or presentment of his good and lawful people, of the same neighbourhood where such deed was done, in due manner, or by process made by writ original at the common law; and that none be put out of his franchises or freehold, unless he be duly brought in to answer, and forejudged of the same by course of law: and if any thing be done against the same, it shall be redressed and held for null." The 28th of Edw. 3, is very direct to this purpose; there it is enacted, "That no man, of what estate or condition he be, shall be put out of his lands or tenements, nor taken nor imprisoned, &c. without he be brought in to answer by due process of law." 36 Edw. 3. Rot. Parl. Num. 9. Amongst the Petitions of the commons, one of them, being translated out of French into English, is thus; "First, That the Great Charter, and the Charter of the Forest, and the other statutes made in his time, and the time of his progenitors, for the profit of him and his commonwealth, be well and firmly kept, and put in execution, without putting disturbance, or making arrest, contrary to them, by special command, or in any other." The answer to this Petition, which makes it an act of parliament, is, "Our lord the king, by the assent of the prelates, dukes, earls, barons, and the commonalty, hath ordained and established, that the said charters and statutes be held and put in execution according to the said Petition; which is, that no arrest should be made contrary to the statutes, by special command."

This explains the matter fully, and is of as great force as if it were printed; for the Parl. Roll is the true warrant of an act, and many are omitted out of the books that are extant.

The 36 Ed. 3. Rot. Parl. Num. 30. explains it further; for there the petition is, "Whereas it is contained in the Grand Charter, and other Statutes, that none be taken or imprisoned by special command, without indictment, or other due process to be made by law; yet oftentimes it hath been and still is, that many are hindered, taken and imprisoned without indictment, or other process to be made by the law, upon them, as well of things done out of the forest of the king, as for other things: that it would therefore please our said lord to command those to be delivered who are taken by special command, against the form of the charters and statutes aforesaid." The answer is, "the king is pleased, if any man find himself grieved, that he come and make his complaint, and right shall be done unto him. 37 E. 3, c. 18, agreeth in substance, when it saith, though it be contained in the Grand Charter, that no man be imprisoned, nor put out of his freehold without process, nevertheless divers people make false suggestions to the king himself, as well for malice as otherwise, whereat the king is often grieved, and divers in the realm put in damage, against the form of the said charter: wherefore it is ordered, that all they who make such suggestions, be sent with the suggestions before the chancellor, treasurer, and the grand council, and that they there find surety to pursue their suggestions, and incur the same pain that the other should have had (if he were attainted) in case that their suggestions be found evil, and that then process of the law be made against them, without being taken and imprisoned against the form of the said charter and other statutes." Here the law of the land in the Great Charter is explained to be process of the law. —From what I have here delivered, it appears what care both the common and statute law have taken of the liberty of our persons; that the former abhorred imprisonment, and never allowed it unless when men had been guilty of force, and rendered themselves enemies to the community; and that the latter has frequently enjoined that it shall not be inflicted, unless by

* Mirror of Justices, c. 5. sect. 1.

† 39 Hen. 1. 65. &c.

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indictment, or such due process as the law requires. What we have here said will assist us in

The second thing proposed; which was to enquire whether the power exercised by the house of commons, be not an invasion of our legal rights, and tends not to subvert even our constitution? The laws are called (E. 6. f. 36.) The great inheritance, and the inheritance of inheritances, without which a man can have no inheritance. The greatest inheritance a man hath, is the liberty of his person, for all others are necessary and subservient to it. If then the house of commons have invaded that fundamental liberty of our persons, which by Magna Charta, and several other statutes, as well as the most ancient customs and laws of this land we are intituled to, this will inform us how far the powers exercised by them have destroyed our legal rights. Magna Charta says, 'That no freeman shall be taken or imprisoned but by the judgment of his peers, or the law of the land:' but it is certain, that men imprisoned by them underwent no judgment of their peers, were not committed by legal process, or by any law that we know in this land. I know it will be said, that by the words of Magna Charta we are to understand not legal process, but the law of the land generally, and that the words extend to all the laws in the realm. Since then there are laws and customs in parliament, and by those customs imprisonment is allowed, it will be said in favour of the house of commons, that they in committing people, do not necessarily destroy that right which we have by Magna Charta.—It is true, there are rules and customs in parliament, and by those customs they have a power to imprison: but that is a power which extends to their own members; such a power is necessary within their society because without it it would be impossible to keep the members of it to such rules and orders as must necessarily be observed by so great a body of men, engaged in so weighty and important business. Confinement here is no violation of the right men have to the liberty of their persons by Magna Charta; that right they all give up, and submit to the rules of the house, when they make themselves members of it. It must be confessed, that this power has been extended farther to persons who are not members, as in cases of breach of privilege, and contempt. I shall not here take notice of the rise of this power, and how great a grievance the exercise of it has been to the people of this land: but must observe, that if a liberty has been taken of confining those who offered violence to members in their own persons, or in their servants or estates, because such molestations, if allowed, might give them too great disturbance, and ruin the business of the public; yet it must not from hence be inferred that the house of commons has an absolute or unlimited power to imprison whom, and for what cause they please. If there are some confinements ordered by that house, which are not, it is sure there may be some which are repugnant to Magna Charta; otherwise Magna Charta, and all the other acts which designed to secure our liberties from the invasions of our kings, whose subjects we are, and to whom we owe allegiance, have left us exposed to the arbitrary will of our fellow-commoners, who (thanks be to God) have yet no such rule or dominion over us. Whether they have invaded our rights contrary to Magna Charta, and in such instances as are a subversion of our constitution, will be evident to us, if we look over the catalogue of their prisoners, and examine the cause of their commitment.

The five Kentish gentlemen, whose case I am now considering, were imprisoned for a fact no more prohibited by the laws of the land, than praying for the king, or that God would direct the consultations of the parliato the advancement of the safety, honour, and welfare of our sovereign and his kingdoms. It would be too tedious to descend to particulars: of the great number which might here be taken notice of, as pertinent to my purpose. I shall mention only two, Mr. Paschal and Mr. Whitacre. The former was sent to the Tower, and kept there to the end of the sessions, for not giving in his accounts after the manner prescribed by the commissioners of accounts, pursuant to an act of parliament. The latter was committed, and continued likewise in his confinement till the end of the session, for being faulty (as the house of commons thought) in the discharge of his office, in an instance of taking bail. After his confinement, his accounts which he had passed, were examined, and they were made another charge against him. Whether those gentlemen were faulty or no, it concerns not me here to enquire. Mr. Paschal has printed his Case, and it is a very hard one; the crime for which he was sent to the Tower, was for not doing what was not in his power to do. But though he and others were guilty, it is certain that the punishing of them after that manner is nevertheless an injury to the public. If Mr. Paschal was guilty of contempt, and punished thus for not obeying an act made in the session of another parliament, and Mr. Whitacre for being faulty in the discharge of his office, may not they for the same reason charge all with contempt who disobey acts of parliament, or are faulty in the execution of their offices, and punish them after the same manner? Either they claim such a power as this, or they do not: if they do not claim such a power as the right of the commons of England, then they own that they have been injurious to those gentlemen in imprisoning them, and destroying that great and fundamental right which they have to the liberty of their persons. If they do claim such a power, they may seem to assume a power which overthrows our whole constitution. This will be manifest, when we consider the several instances wherein it subverts the laws, the rights and liberties of the people.—1. It may be thought an incroachment on the power legislative: for where the

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commons are pleased to inflict such a punishment for the violation of a statute, as is not mentioned in the statute, and was never designed by the legislators, they may seem to assume an authority at least equal to that of the legislative. To create a new punishment, and superadd it to a law, may be allowed to be the act of a power equal to that which made it: and in the present case some may reckon it in some sense greater, since that addition makes it a law with a punishment *ex post facto*, which is a power inconsistent with the freedom of a people, and therefore is never made use of by our legislators. 2. It may be deemed an incroachment on the power and rights of the king. He by our constitution has the supreme and sole executive power: he is *caput & salus reipublicæ*: the laws are his, and the execution of them, wherein the safety and freedom of his people consists, are committed to him, and those who derive their authority from him. Wherever therefore any part of his people take upon them to inflict punishments without being authorised by him, or, which is the very same thing, by his laws, some may think that his rights are thereby invaded, and his majesty lessened, not only by that invasion, but likewise by his being thereby made, instead of a ruler of a brave and free people, a titular king of poor and contemptible slaves. 3. Some may account this an invasion of the rights and liberties of the kingdom, and such a one perhaps as destroys freedom, and introduces downright slavery. It may be worth Englishmen's while to consider, whether they can form to themselves any other notion of a state of freedom and slavery, than that in the former, men are governed by laws made by their representatives, and are liable to no punishments but what are prescribed by the laws of that state; and in the latter, that they have no certain rule to walk by, but are subject to the mere will of one or more who claim a power and dominion over them. If they find these notions true, they will do well to consider again, whether they can avoid making this inference, that they who assume a power to punish a people who live under the direction of the laws, without a rule or law, destroy the rights and liberties of the people, take away their freedom, and reduce them to a perfect state of slavery.

Against what I have here said it is, I know, generally objected, that justices of the peace, judges, and others, are allowed to imprison freemen without being impeached of destroying that liberty which they enjoy by Magna Charta, and the common law of this land: Why then these outcries against the honourable house of commons? The answer is very plain and easy: The former are officers appointed by the king, who is invested with the whole executive power, to preserve the peace of the kingdom; and the latter are commissioned to do the same, and to preside in his courts, to administer justice to his subjects, which it is impossible for them to do without having a power given them to confine evil and rebellious subjects. The lower house of parliament is no court, has no need of such a power, being called by the king to assist him with their council in affairs of the greatest moment and weight, to bear a part in the legislature, and to represent the grievances of the nation, and desire to have them redressed; but not to redress them themselves, by taking upon them to punish offenders. If judges, or justices of the peace, or others intrusted with this power, exceed their commission, and are oppressive and injurious to the subject, there is a superior jurisdiction to appeal to for satisfaction, and laws to determine whether injury has been done or no: But if a house of commons will punish thus without law, there is no authority or power on earth, from which relief may be had by appeal, which in our constitution is a very good reason against their having such a power; for the lord chief justice Hussey tells * us, that sir John Markham told Edward 4. that he could not arrest a man, either for treason or felony, as a subject might, because that if the king did wrong, the party could not have his action against him. It may be farther urged, that as judges having a power to settle and determine property, is a reason why they should have a power to imprison, because the one is impracticable without the other: So the house of commons not having a power to determine concerning property, is a reason why they should not have a power to imprison. *Cui non convenit minus, ei non magis convenit*, is a maxim among the logicians, and is a good argument in the present case. If the house of commons have no power over our goods, then *à fortiori* not over our persons to imprison them, because they are much more valuable than either goods or lands. This Christ himself declares, when he tells us, that the body is more than raiment, where by raiment the Canonists understand all outward things whatsoever. Our laws also make this clear, and give the preference to the body. It is a rule in law, that *Corporalis injuria non recipit æstimationem è futuro*: so as if the question be not for a wrong to the person, the law will not compel him to sustain it, and afterwards accept a remedy; for the law holds no damage a sufficient recompence for a wrong which is corporal. There are cases in law that prove this rule. If one menace me in my goods, or that he will burn the evidence of my land which he hath in his custody, unless I will make unto him a bond, there I cannot avoid the bond by pleading of this menace. But if he restrains my person, or threatens me with battery, or with burning my house, which is a protection for my person, or with burning an instrument of manumission, which is an evidence of my enfranchisement; upon these menaces I shall avoid the bond by plea. So if a trespasser drive my beast over another man's ground, and I pursue to rescue it there, I am a trespasser to him on whose ground I am: But if a man

* 1 Hen. 7. Fol. 4.

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assault my person, and I for my safety fly over into another man's ground, there I am no trespasser to him; for *quod quis in tuitione sui corporis fecerit, jure id fecisse existimatur*; what a man does in defence of his person, he is reckoned to do it lawfully. Nay, which is more, the common law did favour the liberty, not only of freemen, but even of the persons of bondmen and villains, who have no right of property in lands or goods, as freemen have. The lord by the law could not maim his villain; nay, if he commanded another to beat him, and he did it, the villain should have his action of battery for it against him. If the lord made a lease for years to his villain, if he pleaded with him, if he tendered him to be a champion for him in a writ or right, any of these acts, and many others, were in the law enfranchisements, and made those villains freemen. From all which it appears, that the law has a greater regard to our persons than estates; which, as I said, is a good argument why the house of commons, who have nothing to do in regulating or determining our other properties, should not have a power over the liberty of our persons.

Sir John Fortescue the learned chancellor to king Henry 6. writing *(de Dom. Polit. & Regal.)* of this kingdom, saith, *Regnum illud in omnibus nationum & regum temporibus, iisdem quibus nunc regitur legibus & consuetudinibus regebatur.* This saying will not suit our times; we cannot say, that the laws and customs which we are governed by, are the very same with those by which this kingdom was governed in the times of all the former kings, and the several nations that came in hither. The power assumed by the house of commons in executing laws, and imprisoning men, is a very new thing, and makes our present state very different from our antient constitution. The last year it had its beginning, when sir Ric——d Lev——g was sent to the Tower, and kept there to the end of the session, for telling a friend some things that were spoken by some of the other Irish commissions, in their private conversation. This commitment, however unreasonable it seemed to some, who knew that he was less guilty of any breach of privilege than if he had spoken reflectingly of a member of parliament's horse, yet was not wondered at by others who considered the resuming bill itself, knew for what end it was set on foot, and that they were resolved to strike a terror on people, and frighten them from saying any thing that might endanger that bill. That power which began the last year, has had a mighty growth this session: and if it grow on at the same rate, it is easy to see what our constitution will come to in a very little time. Old ways are the best ways, is a saying that has been formerly written on the walls of the house of commons: I could wish that it were now written both there, and in the hearts of the members, there never was so great occasion for it: for if these innovators be suffered to drive on thus furiously, many who adhere to their faction without seeing their designs, will make themselves parties in bringing insensibly a calamity on this land, which they will not be able to remedy by any after-efforts. A very little reflection will shew us how this may be. Should there be any design to alter our constitution or present settlement, one ready way is to carry things high in the house of commons, and to make the orders and resolutions there as grievous to the people as possible, that they being enraged at their domination and rigorous proceedings, may be the better inclined to run into another extreme. We know what alteration they by their acts of power have already made in the opinions and affections of people; and the danger which some fear is, that, if they go much farther, they will give too many a surfeit, and make them nauseate the commons, who ought to be, what they reckon themselves, trustees and guardians of the liberties of England. It may therefore well become good men, who love the happiness, tranquillity and liberty of their country, to reflect seriously, and consider with themselves whether this may not be the design of some who now pretend to be mighty sticklers and advocates for liberty. There is another good reason why men should be jealous of, and make it their business to check this rampant growing power of the lower house. It is the general voice of the people throughout this kingdom, as we are informed from all the corners of it, that gold has carried on a great negotiation among us. Some are of opinion, and I must own not without a great deal of reason, that the continual clamours which have been artificially, but upon too weak grounds raised, and the outrageous and unreasonable proceedings which we have seen, are great confirmations of the truth of what has been reported. This is most certain, that where corrupt orators (to speak in the language of a very experienced doctor*) bring their subtilty and eloquence to market, they must follow the instructions of him whose pay they receive, they must set afoot factions and brigues, bring all the confusion they can into their native country, pull down the fence of the laws, destroy the credit and interest of those who are ablest and most inclined to oppose his designs, and in short, do whatever he requires of them. If among us there be any such corrupt members, it is plain that to make themselves the more considerable, and raise the price of their voices, they must think it their business to study ways and means to afflict their fellow-subjects, to embarrass affairs, and bring confusion and disorder into the state. One ready way therefore to defeat the designs of such men, will be to keep them from running into any excesses of lawless and arbitrary power, and tie them to the same rules that directed the actions of their wise and just predecessors. As keeping things in this temperament, and adhering to our constitution, will be a means to defeat the measures of a foreign tyrant; so will it (in some men's opinion) put an end to the fears and calamities of

* Discourse on the Public Revenues and Trade of England, Part ii. p. 262.

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a tyrannic slavery brought upon us by fellow-subjects at home. Tyrannic slavery did I say? Some may call it so, when in a free state, where the whole legislative only has a power to set down what punishment shall be inflicted on the several transgressions that are committed, a part of it assumes a power to inflict one of the severest punishments; when a few who are chosen to be trustees and guardians of the people's liberties, bring the people under their absolute power, and compel them to that which is against the right of their freedom. To be free from such force is the only security men have of their preservation, and reason bids them to look on those as enemies to their preservation, who would take away that freedom which is the fence to it; and so conclude that they have a will and design to take away every thing else, since that freedom is the foundation of all the rest. From what I have here delivered concerning the power of imprisoning in the lower house, it is evident, I think, that if petitioning, as the Kentish gentlemen did, had been an illegal act, and the punishment enjoined by the law had been imprisonment, yet it belonged not to them to inflict that punishment, but to make application (as they have always done heretofore) to have the law executed against them. But if what they did was strictly agreeable to law, this will make their commitment a greater violation of the rights of the community. That it was so, will appear, when we consider,

The second thing proposed, 'the Subject's Right of Petitioning.' This right I take to be as large and ample a one, and what will as little bear controverting, as any thing that we can think of; since it is justified by the law of nature, the practice of all states in the world, and is allowed by the laws of this land. It is certain that nothing can be more agreeable to nature, and a plainer dictate of reason, than that those who apprehend themselves aggrieved be allowed a liberty to approach those by petition who know their grievances, or perhaps are the authors of them, and consequently able to redress them. When men entered first into society and gave up that right which they had to secure themselves in the state of nature, it is manifest that they did it for the preservation of property, which is the end of government. This necessarily supposes, and indeed requires, that people should have property, without which they must be supposed to lose that by entering into society, which was the end for which they entered into it. If men entered into society to preserve it, and therefore are so entitled to it, that (as a very learned and ingenious author tells us*) 'the supreme power cannot take from any man any part of his property without his own consent:' can any absurdity be so gross, as to imagine that men gave up their right to pray for redress, if they thought themselves injured in their properties; or that the supreme power may hinder them to pray for that which they have not a right to deprive them of? Wherever therefore any government is established, there the natural right which people had to secure what was their own, must be so far at least continued, as to allow them a liberty to petition for what they think their right, because this is a privilege which they could not give up when they entered into society. And where there has been no government but the prince's will, even there this right has seemed so natural and agreeable to reason, that it has not been denied. This might be seen in all the arbitrary governments of the world. In the Roman empire Julius Cæsar, when he was in the height of his power, and made himself perpetual dictator, permitted the people to represent the hardships that were put upon them, and pray for redress. And in the reign of other princes who exercised a despotick power, whilst the *ler regia* prevailed, *rescribere principi*, to petition the prince, and set forth their grievances, was allowed their subjects as the natural right of mankind.

If this right be natural, the people of England, who have lost as little by entering into society, as any others, must have as just and ample a claim to it as any nation in the world. That they have a right to represent their sufferings, and pray for a relaxation of them, is evident from the opinions of our sages of the law, from what our kings have permitted and declared, and what has been declared and enacted in parliament.—Our books are very clear in this matter. My lord chief justice Hobbart tells * us, 'That it is lawful for any subject to petition the king for redress in an humble manner; for (says he) 'Access to the sovereign must not be shut up, in case of the subject's distress.' This right was fully proved by the learned counsel at the trial of the seven bishops, and allowed by the judges. It was one of the crimes for which the Spencers were banished, that they hindered the king from receiving and answering petitions from great men and others. And one article against the lord Stafford was, that he issued out a proclamation and warrant of restraint to inhibit the king's subjects to come to the fountain, their sovereign, to deliver their complaints of wrongs, and oppressions.—As the sages of the law have told us, that it is our undoubted right, so have our kings in all ages permitted us by petition to inform them of our grievances. In the reign of king Edw. 2. and king Edw. 3. such petitions were frequent, and then even Ireland was allowed to represent their grievances†, and petition for a parliament.—Dr. Burnet ‡, the learned bishop of Salisbury, informs us, that king Henry 8, told his subjects, when in arms against him in Yorkshire, that they ought not to have rebelled, but to

* The author of Two Treatises of Government, p. 277.

* Wrenham's Case, vet Mag. Chart. Exil. Hugon. de Spencer.

† Claus. 10 E. 2. M. 28. pro communitate Hiberniæ.

‡ Hist. Reformat. Part 1. p. 231.

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have applied themselves to him by petition. King James 1, by a proclamation published in the 11th year of his reign, begins thus: 'The complaints lately exhibited to us by certain noblemen and others of our kingdom of Ireland, suggesting disorders and abuses, as well in the proceedings of the late begun parliament, as in the martial and civil government of the kingdom, we did receive with all extraordinary grace and favour.' And by another* proclamation he declares, that 'it was the Right of his Subjects to make their immediate Addresses to him by petition.' And in another† he tells his people, that 'his own, and the ears of his privy council did still continue open to the just complaints of his people, and that they were not confined to times and meetings in parliament, nor restrained to particular grievances.'

It appears by the Lords Journals in the year 1640 that the house of lords both spiritual and temporal, nem. con. voted Thanks to those lords who petitioned the king at York to call a parliament: and that king by his Declaration, 1644, declared his royal will and pleasure, that all his loving subjects, who have any just cause to present or complain of any Grievances or Oppressions, may freely address themselves by their humble Petitions to his sacred majesty, who will graciously hear their complaints.

On the 27th Oct. 1680, it was resolved in the house of commons, nem. con. 'That it is and ever hath been the undoubted Right of the Subjects of England to Petition the king for the calling and sitting of parliaments, and redressing of grievances.' It was then likewise resolved, nem. con. 'That to traduce such Petitioning as a violation of duty, and to represent it to his majesty as tumultuous and seditious, is to betray the liberty of the subject, and contribute to the design of subverting the antient legal constitution of this kingdom, and introducing arbitrary power‡.' On the Friday following it appearing to the house upon the examination of several witnesses at the bar thereof, upon the evidence against sir Francis Withins, as well as upon his own confession, that he had presented an Address to his majesty, expressing an abhorrency to petition his majesty for the calling and sitting of parliaments; it was resolved, 'That sir Francis Withins by promoting and presenting to his majesty an Address, expressing his said Abhorrency, hath betrayed the undoubted rights of the subjects of England. It was moreover ordered, that he should be expelled the house, and that he should receive his sentence upon his knees.

This Right of the subject to petition is farther confirmed by the statute law of this land, particularly in an act made in the 13th of Charles 2, the enacting part of which I will here at large set down, because it is a plain declaration of the subject's right in the case of the Petition now under our consideration. "Be it enacted, &c. That no person or persons whatsoever shall from and after the first of Aug. 1661, solicit, labour or procure the getting of hands, or other consent, of any persons above the number of 20 or more, to any petition, complaint, remonstrance, declaration, or other address to the king, or both, or either houses of parliament, for alteration of matters established by law in church or state, unless the matter thereof have first been consented to, and ordered by three or more justices of the county, or by the major part of the grand jury of the county, or division of the county, where the same shall arise, at their public assizes or general quarter sessions: or if arising in London, by the lord mayor, aldermen, or commons in common-council assembled: and that no person or persons whatsoever shall repair to his majesty, or both, or either houses of parliament, upon pretence of presenting, or delivering any petition, complaint, remonstrance, or declaration, or other addresses, accompanied with excessive numbers of people, not at any one time above the number of ten persons, upon pain of incurring a penalty not exceeding the sum of 100*l.* in money, and three months imprisonment. Provided always, that this Act, or any thing therein contained, shall not be construed to extend to debar or hinder any person or persons, not exceeding the number of ten aforesaid, to present any public or private grievance or complaint to any member or members of parliament, after his election, and during the continuance of the parliament, or to the king's majesty, for any remedy to be thereunto had."

Concerning this statute we may observe four things: 1. That it allows, as Mr. serjeant Levins observed in the Trial* of the seven bishops, and we are taught by several other good authorities†, that by the law of the land before, it was the settled and undoubted right of the subjects of England, to apply themselves to the king, or either, or both houses of parliament, by petition, to have their grievances redressed. 2. That where it limits this power of the subject, and requires that the petition shall be consented to, and ordered by three or more justices of the county, or by the major part of the grand jury of the county, or division of the county where the same matter shall arise, or by the lord mayor, aldermen, or commons in common council assembled, if it arise in London; it is only in a particular case where the address is for alteration of matters established by law in church or state. 3. That even in this case the concurrence of those persons is not required, unless it be where there are more than twenty hands to the petition. 4. That the act extends not to grievances or complaints either public or private, but that they may be presented to the king or parlia-

* Proclam. dat. 10 July, 19 Jac.
Proclam. dat. 14 Febr. 20 Jac.
See vol. iv. p. 1174.

* Trials of the Bishops, p. 121.

† Vid. the Resolutions of the Law. Coke Jurisdiction of Courts.

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ment, without any of those previous formalities, provided that the petition or address be not presented by more than ten.

Having mentioned this Act, which (though made to limit and restrain the subject, and curtail his natural right of petitioning) is a full Declaration of the people's right to apply themselves to the king or parliament 'by Petition, for the redress of their grievances, and for obtaining such things as they apprehend necessary or beneficial to the safety or well-being of the nation,' I need not urge any other authorities, nor take notice even of that act passed since the Revolution, wherein the rights of the people are contained, and that of petitioning is declared to be one. It is evident to any reader of the most ordinary capacity, that the Kentish Petition is warranted by the law of the land, and so plainly within the letter of that act, that those men are forced to acknowledge it, who take a great deal of pains to justify all the proceedings of the house of commons. Was it not then illegal, and a notorious breach of the liberty of the subject, and setting up a dispensing power in the house of commons, to imprison men who were not their members, by no proceedings but a vote of the house, and to continue them in custody *sine die?* A late pamphleteer tells * us, that to say this is done by a single vote without other proceedings, is mere babbling and nonsense; for imprisonment is the first step in order to future proceedings, and practised by every single magistrate. What does this scribbler mean? Were not those petitioners imprisoned by a vote of the house without any other proceedings? Was there any indictment or legal process to try whether they were guilty of any trespass against the law? For what reason does he tell us that imprisonment is the first step in order to future punishment? Would he thereby insinuate that their crime was such as might be further punished by law? Their judges in St. Stephen's chapel knew very well it could not. If it could, why were they not proceeded against? Why were they kept in prison till the end of the session? If they could not, why should they be imprisoned at all, since it could be in order to no future proceedings? But he tells us that this is practised by every magistrate. It is true; they imprison, but it is to keep the peace, and in order to future punishment; and what they do is allowed and warranted by the law of the land. From what I have already said in this discourse, it will appear how absurd it would be to make this an argument, for the commons having such a power as they have used in imprisoning those gentlemen. The design of this pamphleteer is to throw all the dirt he can on the late ministry, to bring them under the odium of the nation, a work which the Jacobites, the French party, and Papists of England are now, and have been a great while very intent upon, and to recommend the proceedings of the house of commons, and the present ministry to the people. These are the persons pointed at in the title of his book, which he calls, England's Enemies exposed, and its true Friends and Patriots defended. If he shew no better judgment in discovering who deserve to be called the enemies, who the friends of England, than in laying the charge of babbling and nonsense, he will do as little service to England, in helping her to make any useful discovery of her real friends and enemies, as he has done to his friends by his poor, paltry, and palpable flatteries. The prince of darkness when he goes up and down to do mischief, and destroy the kingdoms of the earth, as he turns himself into an angel of light, so has he emissaries *qui nigra in candida vertunt*, little hirelings whose task it is to 'call evil good, and good evil,' to deceive with false colours, that he may be the better able to destroy. To give people a little taste of this panegyrist's impositions, and the judgments he has made of men, I will only take notice here that he commends the fair character of Mr. J—n H—w, and calls him, who most certainly called the treaty made by the king a felonious conspiracy, a zealous patriot, and one who will not exceed his duty; that he represents the Spe—er as a person deserving the honourable character of an honest English gentleman, a champion for liberty, and a true patriot without disguise, collusion, or self-interest; that they whose long experience in public affairs gave them knowledge of the methods employed by France in former reigns to enslave Europe, are best able to prevent its designs in this; that tearing up our constitution by the roots, is the work of the late ministry; that they have betrayed the king, and carry on purposes destructive to the nation; that if we have a Porto Carero in the nation, it is he who has done his utmost to deliver us up to France, by investing the most Christian king with a power to seize us; that it is he (meaning l—d Hall—x) to whom French gold is given. Strange effrontery! Had sir Bar—w Sh—er spoken this, I should not wonder at it; he, we know, when the lords were voted guilty of high crimes and misdemeanours for the Treaty of Partition, and an impeachment was ordered, did not blush to say openly in the house that the news of it would be very unwelcome at Versailles.

But to return from this digression to the matter in hand. Those who cannot deny that the subject has a right to Petition, yet justify the proceedings against those who delivered the Petition, because of its reproaching the honourable house, and prescribing rules to our legislators. The resolution of the house of commons concerning it was, that it was scandalous, insolent, and seditious, tending to destroy the constitution of parliament, and to subvert the established government of this realm. Before I come to a particular examination of this Resolution, I must crave leave to make this remark upon it, that this very censure, and the severe treatment of the petitioners, shew us

* England's Enemies exposed, and its true Friends and Patriots defended.

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plainly into what hands we are fallen. We remember very well when it was that sir Edw. Seymour, then a privy counsellor, and some others now in power, learned the trick of giving hard names to petitions. What I here hint at I will endeavour to represent in the shortest view I can, because the matter will be pertinent to the subject I am treating of, and will give true Englishmen an opportunity of making some reflections, which will be useful to us in the present circumstances of our affairs. We cannot forget what great concern the commons of England above twenty years since shewed for the Protestant religion; that their zeal to preserve it was seen in four parliaments which were dissolved in a little more than the space of two years, by reason of their warmth in prosecuting popish conspirators, and labouring to exclude the duke of York, whose succession to the crown raised the hopes of Papists, and gave birth to all their plots.

The first was the Long Parliament, which consisted of members so devoted to the crown, that they would have gratified it in any demand whatsoever, had not the measures taken to destroy Holland, the great friendship contracted with France, by the mediation of the duke of York, and the growth of popery, soured their tempers, and given their inclinations quite another bias. After their prorogation on the 28th of December, 1678, which was soon followed by a dissolution, the next parliament which begun at Westminster on the 6th of March, 1678-9, pursued the same measures to secure the religion and laws of England, and were for that reason prorogued on the 26th of May following.—The people of England alarmed at this, and growing into greater fears of the conspiracy which the parliament endeavoured to prevent, sent petitions to the king from several places, wherein they represented the grievances of the nation, and prayed for the sitting of the parliament to redress them. I shall take notice of the stile of one for all, viz. that of the city of London, wherein they set forth that there is 'a most damnable and hellish Popish plot, branched forth into the most horrid villanies, against his majesty's most sacred person, the Protestant religion, and the well established government of his realm, for which several of the principal conspirators stand impeached by parliament. Therefore in such a time when his majesty's royal person, as also the Protestant religion, and the government of the nation, are in most imminent danger, they most humbly and earnestly pray that the parliament which is prorogued until the 26th of January may then sit, to try the offenders, and to redress all the most important Grievances, no otherwise to be redressed.' This Petition, which was a roll of above 100 yards in length, was presented by sir Gilbert Gerrard, and eight other gentlemen of good note. They all failed of the desired effect, for the parliament was dissolved, and none other sat till October following.

The men now in power have not, it seems, forgotten how they resented those Petitions at that time. Their measures then are the very precedents which they copy after now. Though it was then the subject's right to petition, as I have shewn it is now; though the petitioners took care to keep within the bounds of the law, yet a proclamation issued out on the 12th of Dec. 1679, to prohibit such illegal and tumultuous petitioning, as tending to sedition and rebellion. Besides, care was taken to prevail upon their friends to procure counter-addresses, wherein the subscribers express their abhorrence of petitioning.—These measures that were taken to run down this right of the subject, and to subvert the constitution of parliament, together with the displeasure conceived against some men of great posts in the law, and figure in the civil state, for acting illegally, and giving pernicious counsel, as the commons were pleased to term it, to his majesty, occasioned very warm votes and resolutions in the next parliament, which, after many prorogations*, sat on the 21st of Oct. 1680, and continued sitting to the 10th of Jan. following.—Within six days after their meeting, viz. Oct. 27th, immediately after they had agreed upon an Address to his majesty, wherein they expressed their 'Resolution to pursue with a strict and impartial enquiry the execrable Popish Plot,' they proceeded to Votes about Petitions. Then, as I observed before, it was Resolved nem. con. 'That it is, and ever hath been, the undoubted right of the subjects of England, to petition the king for the calling and sitting of parliaments and redressing grievances.' Resolved, 'That to traduce such petitioning as a violation of duty, and to represent it to his majesty as tumultuous and seditious, is to betray the liberty of the subject, and contributes to the design of subverting the ancient legal constitutions of this kingdom, and introducing arbitrary power.'—Ordered, 'That a committee be appointed to inquire of all such persons as have offended against these rights of the subjects.'

The next day, Oct. 28, sir Francis Wythens, as I observed before, being found guilty in this particular, they voted him 'a betrayer of the undoubted rights of the subjects of England,' and ordered him to be expelled the house. The city of London, having petitioned the house against sir George Jefferys their Recorder, and it being referred to a committee, they passed this vote on 13th of November following: Resolved, 'That this committee is of opinion, that by the evidence given to this committee, it does appear that sir George Jefferys, recorder of the city of London, by traducing and ob-

* The former parliament being dissolved, writs were issued forth for another to sit at Westminster the 17th day of December, 1679, from thence prorogued to the 26th of January, from thence to the 15th of April, thence to the 17th of May, thence to the 1st of July, thence to the 22d of the same, thence to the 23d of August, thence to the 21st of October.

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structing petitioning for the sitting of this parliament, hath betrayed the rights of the subject.' To which the house agreed, and it was ordered, 'That an humble address be made to his majesty to remove him out of all public offices.' They further ordered likewise, that the committee should inquire into all such persons as had been advising or promoting of the late Proclamation, stiled 'a Proclamation against tumultuous petitioning.' The grand juries of the counties of Somerset and Devon having expressed their detestation of such petitioning, the house on the 19th of November, ordered that the two foremen of the said juries, and two others, should be sent for in custody of the serjeant at arms to answer for breach of privilege, as they called this abhorrence of petitioning, by them committed against the house. The next day they voted that one Thomas Herbert, esq. should be sent for in custody, for prosecuting John Arnold, esq. at the council table, for promoting a Petition, and procuring subscriptions. To them they added two others upon the same account, whom they called 'betrayers of the Liberties of the Subject.'

On Wednesday the 5th of Jan. the commons ordered an impeachment against sir Francis North, chief justice of the common-pleas, sir Wm. Scroggs, chief justice of the king's-bench, sir Thomas Jones, one of the justices of the same bench, and sir Rd. Weston, one of the barons of the exchequer. Sir Francis North's crime was, that he (as appeared by the confession of the attorney general before the house, on Wednesday the 24th of November) was 'advising and assisting in drawing up and passing the proclamations against tumultuous Petitions.' Against sir Wm. Scroggs, and sir Thomas Jones, there were a great many complaints, which occasioned many Resolutions of the house, and Votes against them. One of the great complaints was, that when the grand jury which served for the hundred of Ossulston in the county of Middlesex, attended the king's bench with a petition, which they desired the court to present in their name to his majesty for the sitting of that parliament, the chief justice said he would dispatch them presently; that they took it ill to have a petition offered to alter the king's mind contrary to his proclamation: that when there were several presentments against Papists* and other offenders, they discharged the grand jury four days before the end of the term, which was never done before. This act they voted 'arbitrary, illegal, and a high misdemeanor,' several days before this Impeachment was ordered. One of Mr. baron Weston's great crimes was, that, in an extraordinary kind of charge given the assizes before at Kingston (in the county of Surrey) he inveighed very much against Farel, Luther, Calvin, and Zuinglius, condemning them as authors of the Reformation, which was against their princes minds: and then adding to this purpose,* 'Zuinglius set up his fanaticisms, and Calvin built on that blessed foundation: and to speak truth, all his disciples are seasoned with such a sharpness of spirit, that it much concerns magistrates to keep a streight hand over them; and now they are restless, amusing us with fears, and nothing will serve them but a parliament. For my part I know no representative of the nation but the king;† all power centers in him. It is true, he does intrust it with his ministers, but he is the sole representatives; and in faith he has wisdom enough to intrust it no more in these men, who have given us such late examples of their wisdom and faithfulness.' These words (which were witnessed by several persons, some of whom put them immediately in writing) made the committee before whom they were proved come to this resolution, 'That the said expressions in the charge given by the said baron Weston, were a scandal to the Reformation, in derogation of the rights and privileges of parliament, and tending to raise discord between his majesty and his subjects.'

Two days after that (Jan. 7) the commons agreed upon impeaching these great men of the law, who every one came under the public censure for appearing abhorrers of petitioning for the sitting of the parliament, they fell into other votes, which shewed what it was they wanted a parliament for. Upon a message sent to them from his majesty, they came to these several Resolutions following. "Resolved, 1. That it is the opinion of this house, that there is no security or safety for the protestant religion, the king's life, or the well constituted and established government of this kingdom, without passing a bill for disabling James duke of York to inherit the imperial crown of England and Ireland, and the dominions and territories thereunto belonging: And to rely upon any other means or remedies without such a bill, is not only insufficient but dangerous. 2. That his majesty in his last message having assured this house of his readiness to concur in all other means for the preservation of the protestant religion ‡, this house doth declare, that

* Among which there was a bill against the duke of York for not coming to church.

* We see the grand artifice then was to represent all who would not do what the courtiers then would have them, as fanatics.

† Nor did any of his kidney know any other in those days; but now, the king being changed, all power is made to center in the house of commons.

‡ For the better understanding of this place, we are to take notice, that his majesty in a speech which he made on the 15th of December, promised them (as he takes notice he had done before) to concur with them in any remedies for securing the protestant religion which might consist with preserving the succession in its due and legal course of descent. The commons in a long answer to this speech on the 18th of December tell him, That no interruption of that descent has been endeavoured by them, except only the descent upon the

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until a bill be likewise passed for excluding the duke of York, this house cannot give any supply to his majesty, without danger to his majesty's person, extreme hazard of the protestant religion, and unfaithfulness to those by whom this house is trusted. 3. That all persons who advised his majesty in his last message to this house, to insist upon an opinion against the bill for excluding the duke of York, have given pernicious counsel to his majesty, and are promoters of popery, and enemies to the king and kingdom."—After these general Resolutions, they ran into severe votes and resolutions against Geo—ge, earl of Hal—ax, H—ry, ma—qs of Wor—er, H—ry, earl of Cla—on, Law—ce H—de, esq.; Le—s, earl of Fev—am. A motion was also made for an address to his majesty, to remove Ed—rd Sey—or, esq; from his majesty's council and presence, but it was adjourned to the Monday following, which was the day on which the parliament was prorogued. The reason perhaps why they did not press this motion, was because they had agreed upon articles of impeachment against him, upon other scores, just twenty days before. Their warm proceedings, and their insisting upon that particular method to secure the protestant religion, occasioned not only the prorogation of this parliament on the 10th of Jan. but of the following parliament likewise at Oxford, which met the 21st of March, and was dismissed on the 28th as soon as they read the Bill of Exclusion brought in there. On the 10th of Jan. the house of commons, knowing that they were to be prorogued, before the prorogation came to several Resolutions, two of which I shall here take notice of. "1. Resolved, That whosoever advised his majesty to prorogue this parliament to any other purpose than in order to the passing of a Bill for the Exclusion of James duke of York, is a betrayer of the king, the protestant religion, and of the kingdom of England, a promoter of the French interest, and a pensioner to France. 2. That the thanks of this house be given to the city of London, for their manifest loyalty to the king, their care, charge, and vigilancy for the preservation of his majesty's person, and of the protestant religion."—This care and concern which the city of London shewed for the protestant religion, in that time of imminent danger, appeared in many instances, and in two particularly, which the house thought did then deserve a grateful acknowledgment, first in petitioning the king for the sitting of that parliament; secondly, in voting an address to his majesty to declare their loyalty, and to petition him that the parliament might sit until protestantism was secured.

Having given this account of the proceedings both of the courtiers and house of commons, the one to run down, the other to assert the Subject's Right of Petitioning in those days; I must crave leave to take notice of what passed afterwards, because it will be of use to us in the matter I am now treating of. After the dissolution of the Oxford parliament, the king published a declaration, wherein he vouchsafed 'to declare the causes and reasons of his actions to his people.' It might very well be imagined, that after the people had so universally petitioned for the sitting of the last parliament at Westminster, to secure their religion and liberties, which the conspirators were now attacking with the utmost vigour, they would be more than a little alarmed to see that and the succeeding parliament at Oxford so soon dissolved, and that denied them which they thought the only security for their religion. He begins therefore with telling them, that, 'it was with exceeding great trouble, that he was brought to dissolve the two last parliaments.' It were well that those who in their votes concerning the Kentish Petition, shewed that they have not forgotten the spirit of the courtiers at that time as to their abhorrence of petitioning, had remembered their other resentments, expressed in this declaration, as the reasons for dissolving that parliament.

One complaint is, 'That the commons made arbitrary illegal orders, for taking persons into custody for matters that had no relation to privilege of parliament.' Was it at that time arbitrary and illegal to take those degenerate wretches into custody, who published under their hands abhorrences of parliaments, and of those who in humble and lawful manner petitioned for their sitting in a time of such extreme necessity; and is it not now so to imprison and confine men for doing their duty to their king and country, no otherwise than the law prescribes? Is it a greater breach of privilege to shew a letter written by sir Ed—rd Sey—or, than, in compliance with a strange arbitrary illegal proclamation, to run down the Subject's Right of Petitioning; and thus in effect, to strike at parliaments themselves, and endeavour to wound the constitution? What would Mr. Bo—n have said to this? Surely he must have blushed to see his old friends, whose interest he then served, in running down the commons power of imprisoning, exercise such acts of power as were never heard of in England before. Tom Sheridan who laboured in the same cause, and wrote against that power of the commons, which he felt in his own person, with as much warmth as it was possible for Bo—n to do, did he see these things, would

person of the duke of York, who by the wicked instruments of the church of Rome, has been manifestly perverted to their religion; that his succession is utterly inconsistent with the safety of his majesty's person, the preservation of the protestant religion, and the property, peace and welfare of his protestant subjects. On the 4th of Jan. he sent them another message, wherein he tells them that he is sorry to see their thoughts so wholly fixed upon the Bill of Exclusion; that he is confirmed in his opinion against that bill, &c. This occasioned the resolutions of the 7th of January, set down here.

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be able perhaps to behold them with little astonishment. He knew the frailty of human nature, and carried much of it about in his own body: for after he had taken a great deal of pains, (as all the royal scribes of those times, and his religion did) in decrying fanaticism and republican principles, in crying up episcopacy and the church of England, and rescuing the minds of men from those groundless fears of popery, which were running them into measures pernicious to the duke his master's interest; he saw, poor man, popery rampant, and a popish king in England; he saw the bishops, and (which he could not but wonder at) was glad to see them, in the Tower; and, which must be the greatest wonder of all to such a zealous churchman as he was, he saw himself a papist. It would therefore be now the less surprizing to him to see his old loyal friends turned downright republicans, and as violent in the house of commons for illegal and arbitrary imprisoning, as they were against that, and all other power in the commons.

Another complaint in the Declaration, and a reason given for dissolving those parliaments, is their ' strange illegal votes, declaring divers eminent persons to be enemies to the king and kingdom, and desiring to have them removed from the king's council and presence, without any order or process of law, any hearing of their defence, or any proof so much as offered against them.' The persons here pointed at in the Declaration are very well known, so is the crime for which they are declared, ' Enemies to the king and kingdom.' Time has shewn whether those parliaments had reason to express their resentments against those men who adhered to the duke of York's interest. Had they been less warm for him, they had perhaps been kinder to their religion and country. It is certain that extraordinary artifices were made use of to support his interest. Such I may call this very Declaration, which though it was reckoned for very good * reasons, to be contrived by a great French minister, though it came not out under the great seal, and was only subscribed by Francis Gwyn the clerk of the council, yet was read publicly in the churches. Such I may reckon the addresses contrived and sent up by men of the same leaven with the former abhorrers: wherein some † ' ascribe it to his majesty's wisdom and sovereign authority, that we are not relapsing into the miseries and confusions of tyranny and usurpation, by the subtle artifice and cunning contrivance of the ' old enemies of the monarchy* and the church.' Others,† ' That it is the kingdom's interest to continue the succession in its due and right line;' and take upon them to thank his majesty, ‡ ' for his unalterable resolutions to preserve the crown in its due and legal course of descent; and undertake to sacrifice their lives to preserve the king's heirs and lawful successors:‖ and offer their lives and fortunes to his majesty's disposal for this purpose.' It must be astonishing as well as surprising in those days, that when petitions had been not only discountenanced, but forbidden by proclamations, addresses should so soon after be encouraged and promoted; especially when we consider that the petitions were in reference to matters which every body understood, and in relation to things wherein the law justified the petitioners: whereas addresses respected matters which very few understood, and which the law no way authorizes private men to meddle with, and which none save a parliament have power to decide or determine. If change of parties in St. Stephen's chapel make it not astonishing to us, now to see a house of commons treat gentlemen so severely as this has done, for presenting a legal petition, when another house has called others to account for expressing their abhorrence of petitioning; yet it must seem a little strange to see those who promoted addresses to the king to secure the interest of a popish successor, imprison so many gentlemen of worth and note in their country, for addressing them, and praying in the most difficult times we ever fell into, that our religion and safety may effectually be provided for, and that a king, who under God has preserved the Protestant religion, may be enabled to assist his allies, and consequently preserve our religion and liberties. But if nothing of this be strange, is it not a little amazing to compare some mens proceedings against others, with those remonstrances to the nation published in the houses of God, where they complain of eminent persons being voted enemies to the king and kingdom, and addressed against to have them removed from the king's council and presence, without any order or process of law, any hearing of their defence? Were such votes and addresses greater hardships in the reign of a king, who made it his rule to heap favours on those who were under the displeasure of the house of commons, than they are under a prince, whom the commons reckon obliged in

* The Declaration was not communicated to the privy council, till the 8th of April; but M. Barillon, the French ambassador, read it to a gentleman the 5th of April, and advised with him about it. The gallicisms speak it to be French, for it introduces the king saying, It was a matter extremely sensible to us, a form of speech peculiar to the French. Besides, the duchess of Mazarine published the dissolution at St. James's several hours before it was done. Vid. Just and Modest Vindication of the Proceeding of the two last Parliaments.

† Address from Rye in Suffolk.

* This was the old cant to draw in the church party to their side, to make them believe there were evil designs against the monarchy and the church. That they may keep up a title to the useful cant, they themselves increase the number of those enemies.

† Address from the county of Somerset.

‡ Address from Cambridge, Rippon, western division of Sussex.

‖ Address from Hereford. Address from Monmouth.

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a manner to comply with them in all their desires?

From what I have said it appears when, and upon what account the subject's right of petitioning was run down. As the petitions offered by the people were for the sitting of the parliament, and that to have their religion and liberty secured in a time of great and manifest danger: So were the abhorrences of those petitions set afoot, four parliaments dissolved, the king's declaration containing the reason of it published in churches, and the thanks-giving addresses to his majesty afterwards procured, to defeat the measures then taken for the preservation of our religion, and to secure the duke of York's peaceable succession to the crown. If there be any who consider, that those who have a concern for the Protestant religion, must apprehend at least as much evil from king James or his family's returning now, as from his succession at that time; and that as it is of as great importance to the affairs of France to have him on the throne, or confusion in England, as then it was; so count Tallard must be as industrious in taking measures to serve his master, as Mr. Barillon was in those days: it must be a very melancholy reflection to them, to think how differing the temper of the commons of England now is from what it was then; and to see the power in their hands, who were in all those court measures which, I am afraid, have not yet had their worst effects.

Good natured people, who are as far from being suspicious of others, as they are from evil designs themselves, do, I know, judge those men too severe in their censures, who think that in the treatment of the Kentish Petitioners there were the same regards and designs that were formerly in their abhorrences and addresses: or that this was done to gratify count Tallard, and, by striking a terror, to prevent the people from running universally into petitions and addresses, and conjuring up a spirit in the nation which might be very prejudicial to his master's affairs. It is true indeed, they do and must own that it is hard to account for the severity of their proceedings: That when the law has in express words provided that people may petition the parliament, they should place such an affront on the county of Kent (I should say the whole kingdom of England) as to imprison their delegates after the manner they did. If every part of the Petition was not so nicely worded as they would have it, would it not be sufficient to reprove them for it? would no less punishment than imprisonment do? If any of their own members be at any time taxed for speaking amiss, they are suffered to explain themselves; why should not they allow others to do the same? If there was any thing in the petition which the house thought a reflection, one of the gentlemen told sir Theophilus Oglet—rp they would declare at the bar of the house that it was what they did not design, and would ask pardon for it; but nothing would serve that plenipotentiary's turn but to have them declare that they were sorry for presenting the Petition, which they never would do. That which gave offence was, calling their addresses loyal: If they were loyal, it could be no reflection to call them so; if they were not, they had reason I confess to think it a jeer, and at the same time they ought to confess that it was what they deserved. It is most certain that the design of the gentlemen who signed that Petition, was to serve their country by it, which they did effectually: the methods then that they made use of must be such as they thought properest for that end, wherefore the goodness and sincerity of their intentions must silence every thing that can be said against their way of expressing themselves. The censure of the commons is very severe, they tell us the Petition is 'scandalous, insolent, seditious, tending to destroy the constitution of parliament, and subvert the established government of this realm.' By the harshness of the expressions, a man would think that this petition were an address to a king, or a remonstrance that charged him with a felonious conspiracy, or making a treaty in its own nature unjust. How can it be scandalous or insolent for so considerable a branch in the English nation to present an humble Petition to their delegates, and pray their attornies (as members were formerly called) to take care of the business they entrusted them with? How can it be seditious to shew an extraordinary and unparalleled zeal for the king, to pray that he may be enabled to assist his allies, and that 'God may long continue his propitious and unblemished reign over us?' how can it tend to destroy the constitution of parliament, and subvert the established government of this realm, to pray to have those things done, which are absolutely necessary to prevent our falling into the hands of those enemies who will certainly destroy the constitution of parliament, and subvert the established government of this realm? The last Westminster parliament in the reign of Charles 2, resolved, 27th of Oct. 1680, nem. con. (as I observed before) 'That to traduce petitioning as a violation of duty, and to represent it to his majesty as tumultuous and seditious, is to betray the liberty of the subject, and contributes to the design of subverting the ancient legal constitution of this kingdom, and introducing arbitrary power.' This parliament resolves, that the Kentish Petition tends to destroy the constitution of parliaments, and to subvert the established government of this realm. It is very strange that to traduce petitioning, and to petition should both tend to subvert the constitution. If it be the undoubted right of the subject to petition, it will be very easy to determine which of the two resolutions is rightest; and if we compare the former inclinations of a party with their late proceedings, it will be evident to us, how the last resolution happens to be wrong. But it is said, that there is something particular in the petition which justifies this resolution; the petition directs the house of commons, and tells them what they shall do; this, they say, is insolent, and 'tends to destroy the constitution of parliament, and to subvert the established

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government of this realm.' Very strange! can any man, or body of men, offer a petition to others, that is not liable to the same censure? Does not their petitioning plainly say, that they think themselves aggrieved? Does not their prayer direct those to whom they address, what they are to do? But how this petition of the grand jury, justices of the peace, and freeholders of the county of Kent, can be said to 'tend to destroy the constitution of parliament, and to subvert the established government of this realm,' is to me very difficult to conceive. Had this indeed, which is an humble petition, carried authority and power in it; had they pretended to a right to command the house of commons to do what they would have them, I cannot see how even such an assuming address as this could bring our constitution into any great hazard. Should the whole freeholders of the county of Kent join unanimously in such an address, yet would the power and authority of the representatives of the freemen of England, and the constitution of parliament, rest very secure in the judgment of the rest of the people, who would never justify such an usurped authority.

An usurped authority I call it, and must subscribe to that, as what I take to be very moderate and just, which colonel Algernoon Sidney says in that discourse which cost him his life;* 'I believe,' says he, 'that the powers of every county, city and borough of England, are regulated by the general law to which they have all consented, and by which they are all made members of one political body—Among us every county does not make a distinct body, having in itself a sovereign power, but is a member of that great body which comprehends the whole nation. It is not therefore for Kent or Sussex, Lewis or Maidstone, but for the whole nation that the members chosen in those places are sent to serve in parliament: And though it be fit for them as friends and neighbours (so far as may be) to harken to the opinions of the electors for the information of their judgments; and to the end that what they shall say may be of more weight, when every one is known not to speak his own thoughts only, but those of a great number of men; yet they are not strictly and properly obliged to give account of their actions to any, unless the whole body of the nation for which they serve, and who are equally concerned in their resolutions, could be assembled. This being impracticable, the only punishment to which they are subject, if they betray their trust, is scorn, infamy, hatred, and an assurance of being rejected when they shall again seek the same honour.' But though a part of the freeholders of England cannot impose their commands on the representatives of the whole, yet may they represent any private or public grievance; nor can I see how the doing this can tend to destroy the constitution of parliament. The meaning of those who tell us that it does, must be this, that some people's complaining in behalf of the public, may probably influence others, and thus occasion petitions from all parts of the kingdom. What if it should do so? What if far the greater part of the freemen and freeholders of England should send petitions, and represent public grievances; how can this tend to destroy the constitution of parliament? If there be any law which forbids the people to address, or give any instructions to their delegates, the doing so must be owned to be against law; but it is not a trespass, which (to speak in the phrase of a certain patriot) can pull up our constitution by the roots. But we are told, that by the constitution of our parliament, the members are left to the freedom of their own debates, and are to act without controul; they therefore who take upon them to intermeddle in their business, invade that freedom, and consequently our constitution.

They who tell us that the representatives of the freemen of England have such a freedom as this, and are to act without controul, cannot sure mean that they have delegated their whole power to them, so that it is free for them to do whatever they please, without any regard to the inclinations or interest of those who employ them. It is not to be supposed that he who takes what servant he pleases, is obliged to suffer him to do what he pleases. The knights, citizens and burgesses, sent by the people of England to serve in parliament, have a trust reposed in them; which if they should manifestly betray, the people, in whom the power is more perfectly and fully than in their delegates, must have a right to help and preserve themselves. Were not this so, the condition of those who act by delegates would be worse, and their freedom less than that of other states; which I think is not so in the reckoning of mankind.—The Achaians, Etolians, Latins, Samnites and Tuscans, formerly did, as now the United Provinces of the Netherlands, the Switsers and Grisons do, transact all things relating to their associations by delegates. The Athenians, Carthaginians, and Romans kept, as the Venetians, Genoeses and Luccheses do now, the power in their own hands. These all, as the above named honourable author * observes, were equally free. But it would, I think, be very improper to reckon them so, unless we supposed that the power committed to their trustees remained still in them.

That the power arises and is fixed here, and that the delegates reckon themselves obliged to follow the directions of those who chuse them, is evident from the practice of other countries, whose governments had the same origin with that of England. The deputies or procuradores of the several parts of Castile did in the Cortez held at Madrid, in the beginning of Charles the fifth's reign, excuse themselves from giving the supplies he desired because

* Discourses concerning Government, sect. 44. p. 451.

* Sidney, of Government, p. 451.

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they had received no orders * in that particular from the towns that sent them; and afterwards receiving express orders not to do it, they gave his majesty a flat denial. The like was frequently done during the reigns of that great prince, and of his son Philip 2. The same way was taken in France, as long as there were any general assemblies of estates; and if it do not still continue, it is because there are none: for no man who understood the affairs of that kingdom, did ever deny, that the deputies were obliged to follow the orders of those who sent them.—In the general assembly of estates held at Bloys in the time of Henry 3, Bodin then deputy † for the third estate of Vermandois, by their particular order, proposed so many things as took up a good part of their time. Other deputies alledged no other reason for many things said and done by them, than that they were commanded so to do by their superiors. These general assemblies being laid aside, the same custom is still used in the lesser assemblies of estates in Languedoc and Brittany. The deputies cannot, without the infamy of betraying their trust and fear of punishment, recede from the orders given by their principals. The same method is every day practised in the diets of Germany: the princes and great lords, who have their places in their own rights, may do what they please; but the deputies of the cities must follow such orders as they receive. The histories of Denmark, Sweden, Poland and Bohemia, testify the same things.

This appears to have been the constitution of England. Formerly, said my lord Coke, ‡ 'in the writs to the sheriffs for the election of commons, the king signified, that by the advice of his council he called them together about some weighty affairs that concerned himself, the state and defence of his kingdom of England, and the holy church, and required them to chuse such men as would promote those affairs: that for want of such a power, and by an improvident election, the aforesaid business might not be left undone.' The business that required their meeting was published in the writs, that the commons and freemen might consider what they thought convenient to have done, and that they might chuse proper delegates, and direct them as they thought fit. This I take to be the reason why 'it was always the custom at the meeting to declare the cause of parliament, which in ancient time,' says ‖ he, 'was shewed in the chamber *de peint*, or St. Edward's chamber: that the persons elected being more fully informed of the business to be transacted by them, might be able to give their respective countries timely information of it, in order to receive their directions therein. In this opinion we may be confirmed by what that great sage of the law tells us in another place. When any new device is proposed on the king's behalf,' says § he, 'the commons may answer, That tendered the king's estate, and they are ready to aid the same, only in this new device they dare not agree without conference with their countries.'—Since then in our constitution the delegates of the people have reckoned that they had a trust reposed in them by those whom they represented, and that they were obliged to make their will the rule of their actions; it will be very hard to conceive how it can tend to destroy this constitution, to pray them to have a regard to the voice of the people. If they faithfully discharge the trust reposed in them by the country, it will be impossible at any time to procure a petition signed by such a number of gentlemen as those of the county of Kent, which may any way seem to arraign their proceedings; but if their management bring them under the suspicion of the nation, the people who have a right to preserve themselves, must be allowed a liberty to let them know, in civil and respectful terms, what is the voice of the people, and what they think the necessities of the public. In such a case it is impossible for all to represent the public grievances together; some therefore must begin, and they who address first, when there is a good reason for it, deserve the thanks of the whole. It was impossible that such a considerable body of gentlemen as the Kentish Petitioners, should conspire together to affront the house of commons; they knew what they did was done in the eyes and face of the nation, that such an act of folly and madness must bring them into the lowest degree of contempt with the people of England. They thought therefore what they did was a duty which they owed their country in that great and nice juncture; whether it was so or no, will appear from

The third and last member of this Discourse, which is to shew what reasons those gentlemen had to petition.—It was notorious to them, and all the world, that our affairs were at that time in a very dangerous and melancholy posture. They knew that France has a long time aimed at the universal monarchy: that as she has maxims in her government which are very well calculated for such great designs; so by her carrying on a ten years war, against the powerful states confederated against her, they saw that she has force to support her in those enterprises. If her power was formidable when she marched out only in her own strength, it must be very terrible to see her strengthened with the union of no less a power, than that which two ages before grasped likewise at the empire of the universe. It is true indeed, those dominions were not bequeathed to her; but being given to one of the house of Bourbon, who must live under the guardianship, be protected by the power, and governed by the counsels of France, she must necessarily and of course have the same command over their wealth and force that she had over her own. This was an early effect of the Spaniard's will: for though in the beginning the French party among us endeavoured to make us be-

* Vida de Carlos 5° de Sandoval.
† Hist. Thuan. ‡ 2d Instit. fol. 9, 10.
‖ 2d Instit. fol. 8. § 2d Instit. fol. 14.

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lieve, that France would be in no better condition than it was before, because the duke of Anjou would forget his father's house, and be governed only by Spanish counsels; yet the contrary was evident at the time those gentlemen delivered that petition. They saw that the Milanese was delivered up to her; that the strong holds of the Spanish Netherlands, which we have a long time reckoned the bulwark of England, and have spent vast treasure and blood to keep them out of her hands, were all in the possession of her troops: and not only so, but that the administration of all the affairs of Spain were given up to her.

Besides this, they saw how great a breach has been made in the Protestant religion since the beginning of the last age: that the kingdom of Bohemia, which was almost wholly Protestant, is now entirely Popish: that in Poland, Austria, and Moravia, the Protestants, who were a moiety of the people, are utterly destroyed: that their destruction is almost compleated in Hungary: that the Newburghers from zealous Protestants, are turned deadly enemies of the Protestant religion: that the Palatinates are wasted with persecution, and the Saxons their neighbours are so far from being able to succour them, that they are in danger from their own prince: that in France, where they were powerful enough to carry on several great civil wars; and in Piedmont, where their numbers were much greater in proportion to the countries; and in Flanders, Bavaria, Bamburgh, Cologn, Wartzburgh, and Worms, where they were very numerous, their religion is totally extinguished. All this was a very melancholy view; and that which made it more so, was to consider that France (which out of regard to her own interest, the greatest and indeed only obligation in the world to her, was obliged by all means possible to destroy the northern heresy, she having made this the foundation on which she built her hopes of universal monarchy) was now in a new friendship and alliance with the fiercest zealots of the Church of Rome, the Spanish clergy, men whom it was her business to gratify, and whom she could not gratify more, than by contriving severer methods to torture and destroy heretics.

In such a juncture as this, it was easy for a very weak capacity to see what it imported England to do in order to secure her own and Europe's liberties, and to prevent the utter extirpation of the Protestant religion both at home and abroad. It was evident that France, which had made such advances already, wanted nothing to make sure of the universal monarchy, but only to confirm herself in the dominions of Spain; and as evident it was that every day she continued unmolested in her new acquisitions, her strength must grow prodigiously, so that in a little time it must be insupportable. In that case she had leisure and opportunity to settle her new dominions, to discover the weakness of their fortresses, as well as policy, and to repair both; to learn the temper of the several provinces, and to consider how they might be secured, and by what governors; to make the best provision that was possible for defending Milan; and (which has been a long time one of the high reaches of her ambition) to get into a quiet possession of all the strong holds in Flanders. Besides this, there was another inestimable benefit which she reaped by the quiet that was indulged her. Whilst those who a long time checked her growing greatness, patiently endured this new union of power; what could the other nations of the world think, but that this unconcernedness proceeded either from an inward satisfaction that France had acquired such power, or a despair of breaking it, and restoring the balance again? The natural consequence of either reflection must be to resolve that it was their interest to submit, and indeed to make their court to a power which was likely to meet with no opposition. It was this that made the Spaniards, and the people of their provinces, tamely suffer one of the house of Bourbon, which they hated, to take possession of their dominions: it was this made other states enter into neutralities and alliances, which they would have refused, had not the quiet and peaceable conduct of others governed their inclinations. Having once fixed their resolutions, it is to be feared we shall find them adhere too obstinately to what they have engaged to France, and resolved with themselves. If honour be not sufficient to influence them, and keep them steady to the side they have chosen, even interest may help to do it now; for the notions of that alter, when men have new modelled their thoughts, and let their heads run upon other schemes.

In that great juncture, when the season was for making the earliest and best provision for securing the liberties of Europe, the eyes of the world were all fixed upon England. It was she who had always kept the balance; and she only having it now in her power to determine whether it should be preserved or no, other nations were to observe her motions, and take their measures from her. None could doubt, that if she had entered betimes into a firm league with the Emperor and Holland, it would have presently produced a confederacy strong enough to humble France, which was grasping at things much beyond the reach of her power, in that feeble and weak condition she was reduced to by a long war and evil conduct. It was therefore undoubtedly the business of English ministers to advise the calling of a parliament, immediately upon the news of the Spaniard's death, and of the parliament to address the king to make Alliances. Had this been done, Portugal would have thought it her interest rather to enter into alliances with them, than make herself a party in establishing the throne of the duke of Anjou, who when he is established and made one with France, will certainly set up his title to Portugal. The duke of Savoy then would have considered, that it was by means of the equilibrium between the house of Aus-

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tria and France, that his ancestors preserved their dominions; he would have considered likewise, whether it was worth his while to make his sons beggars, or soldiers of fortune, for the sake of aggrandizing his daughter. This will be the acquisition of his battles if they be successful; for when the Milanese, and both the Sicilies are in the hands of France, his dominions will be necessary to her for communication. The Pope then probably would have reflected on the affair of the Corsi, the extension of the Regale, the four propositions advanced at Paris, and all the enormous attempts against the dignity of the head of the Church in the person of Pope Innocent 11, and would perhaps have declared for the emperor, had he had such encouragement to do it. Nor is it improbable that the republic of Venice would do the same; she could hardly avoid considering betimes that the neighbourhood of France proved so fatal to her in the small number of years that Lewis 12 enjoyed Milan, that he reduced her to greater extremities than any other war, even that of the Turks, ever did. A consideration so powerful with that wise republic, that though the vast power of the house of Austria under the emperor Charles 5, might have given her just grounds of jealousy, she would never lend her ear to any proposition of Francis 1, successor to Lewis 12. Had things been upon a right foot in England, it is very probable that the duke of Bavaria, and his brother the archbishop of Cologn, would have remembered the obligations laid upon them, at least their own interest; and that the former would have taken measures which would make the war much easier than it will be. In that case the people of Spain, and their provinces, would, if they did no more, keep up their old resentments against France, which in a convenient season would render them very useful to the confederates. The Germans would consider what danger they were in of having a prince, grown so great by the accession of the Spanish dominions, carry his arms into Germany, where he has great footing already, and challenge all the states which compose that great nation as part of the succession of Charlemaign, of which he and other kings of France have already declared themselves heirs. In this case some (as the chapter of Cologn seems very lately to have done) would consider that in an hereditary empire, there would be no more colleges, nor diets, nor chapters: others, that it is a vain thing to dispute about prerogatives, and to make France judge of the dispute, whose arbitration must turn to the ruin of the empire. And the result of these reflections, would be to enter into measures agreeable to them.—These probably had been the resolutions of those foreign states, at least of some of them, had not the management of England discouraged them to that degree, that they must arraign themselves of rashness and folly, if they had taken those measures which they knew were most for their interest.

Things being in this state, it is very plain that the gentlemen of Kent had a great deal of reason to pray the house of commons to have a regard to the voice of the people, that our religion and safety might be effectually provided for, and that his majesty by supplies might be enabled to assist his allies. The voice of the people was then every where loud for war; there was scarce any so weak as that they could not see that no provision could be made for our religion or safety without it. It was manifest that France, after she had been a while settled in her new dominions, would be able to overcome Holland whenever she pleased. Holland being over-run, it was easy to see that England being spoiled of her trade by that revolution, and the union of the two great kingdoms, must soon follow her fate.—The French party indeed told us, and (which among other things occasioned some reflections) the house of commons seemed to some to be of their opinion, that our security might be sufficiently provided for by a good fleet. It was a very fond opinion to imagine that we, who in conjunction with Holland were the last war insulted upon our own coasts by the fleet of France, and another time had probably been ruined by them, had not the Heavens been favourable to us, should be able, after the loss both of our trade, and the assistance of the Dutch, to maintain a fleet big enough to secure us from a power so exorbitant as that of France would then be. A powerful fleet are words that sound plausibly in the mouths of those people, who are for having our arms to be as little grievous as may be to France, and they serve to amuse and impose upon weak people; but men of understanding must allow this to be a very uncertain security, This was the only provision for our safety, which the parliament for a long time seemed inclined to allow us.

Whatever matter was offered that seemed to have the least tendency to a war, was violently opposed by the Sp—ker, Mu——ve, Sey—r, Sho—r, Fi—ch, H—w, Ha—rt, and all those who were entirely in the interest of that party. This aversion they plainly discovered in the beginning of the session, when on the 14th of February, immediately after the king had made his speech, they came to the resolution, to stand by and support his majesty's government, and take such effectual measures as may best conduce to the interest and safety of England, the preservation of the Protestant religion, and the peace of Europe. We cannot but remember what debates arose upon this last clause, and with what difficulty it was carried by 181 against 163; and that the reason why it was opposed was, because it was plainly declaring for a war. Here it was that the prejudices began against that party in the h—se, and this laid the foundation for the great suspicions that followed afterwards. It was amazing to all those who could discover no possible means to preserve us but by a vigorous war, to see such a great number of

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the representatives of the freemen of England, labouring for that which of all things in the world France most desired, and would give any money for. Nor was this the voice of that party in the h—se alone, but all without doors who were of their faction, and all who had any biass to France, or the Saint Germain family, were every where industrious and noisy in decrying a war, and setting forth the inconveniences of it. But that which gave the melancholiest reflection of all, was to find that those who were thought to have the sole direction of public affairs, were in the same sentiments.

These spoke their minds freely upon that subject, as we have been told, so did their friends; and the saying of one gentleman in a great station to count Vratislau the emperor's minister, ought to be remembered: what their sense was, the author of the three essays told us before the parliament sat; the manner of his expressing it speaks it to be published with their allowance, and those who know his conversation with them, were persuaded it was. If any among us (says he) seem at present willing to embrace peaceful counsels, and to decline entering upon immediate action; it is not that they doubt themselves, or dread the adverse strength, or that their antient enmity to France is buried in oblivion. They are not so apprehensive of coping with any foreign strength, as they are fearful they shall be compelled to enter into fresh conflicts with the enemies of England, whom they had almost subdued, &c. Their ears can never endure the cries of the poor for want of work, &c.* It is a monstrous tenderness and compassion, which can endure rather to see popery and slavery display their banners in this land, than to behold the calamities which a new war must bring upon their country. If he can see how they can be kept out without a war, he sees things in quite another light than what any honest Englishman does. One would think he thought but slightly of the calamities of a war, when he tells us, that one of the greatest things to be dreaded in it is, that it will bring those men into play again, who never gave us the least suspicion of their being in any other interest than that of their country. It is very easy to perceive what his designs are, both in running down those men, and labouring to give us a dismal idea of a war: but he and his friends tell us, that his book shews him to be plainly for a war. It was cunning in him to say something, for fear of falling under the rage of an injured nation; and it was policy to grant him a dispensation to do it, lest by being too plain in handling an odious subject, he might put it out of his power to do any service for the future. He seems sometimes to write for a war, but (which shewed his inclination) voted against it amongst the 161: he ought indeed, he said, to do otherwise, but Ja—k H—w smiled so pleasantly upon him, that he could not divide against him. When he speaks for a war, it is very coldly, and in other places he takes care to destroy the force of what he said; in one place he tells us *, 'That we can reap little from a war, but the perils and losses with which it is like to be attended.' This is but a small encouragement to it. In another, he is afraid 'such a debt will be at last contracted,' and most of it abroad, as in time must impoverish and sink England †. What then must we do? Why, all Englishmen ought seriously to consider this reflection which Machiavel makes, That when a prince or commonwealth arrives at that height of reputation, that no neighbour, prince, or people, dares venture to invade him (unless compelled by indispensable necessity) he may do what he pleases ‡. In all probability, says he, the French are now arrived to this formidable pitch of greatness, unless the Spaniards shew more courage than has appeared in any measures they have taken these last hundred years. If this be so, that the power of the French is grown too great to be resisted, and we have no hopes but from the Spaniards taking good measures, we are in a very miserable condition. But hold, he shews us some hopes yet. If they can so prevail, as to make their young prince become a good Spaniard; if they can divide him from French counsels—if the quiet reception he is like to find, make French counsels, and French supports no longer necessary to him, those fears will be somewhat allayed, which we now labour under, but are there any hopes that it will be so? Yes, sure, very great; he gives us promising hopes of his person, and that a martial young prince, if he be endowed with any share of his grandfather's conduct and wisdom, may put Spain in a better condition than it has lately been, to oppose France in any attempts it may hereafter make upon the liberties of Europe.

O wonderful contrivance to serve his masters, and persuade England to lay aside all thoughts of war! Could he expect to do it by such little fetches as these, to scare a great and warlike people with his paltry representations of the power of France, or to lull a wise nation asleep with such a silly prospect of security? Yet this is one of the great machines which count Tallard the chief French engineer in England has made use of, not only to bomb great ministers, and every thing he has a mind to reduce to ashes, but to batter down all the strong holds and fortresses of our religion and liberties. This is he that is caressed by the great men of our own court; this is he that is employed to teach young gentlemen the business of the nation; who is to tell them in print a little before the session begins, what they are to do the next session. If this be our condition, that the weighty affairs of the kingdom must be managed by senators, who are to learn their wisdom from such a wretch as this, in charity

* Essays upon Balance of Power, &c. page 80, 81, 82.

* Ibid, p. 77. † Ibid, p. 87. ‡ Ibid, p. 78.

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we ought to pray for them, in the language of our Saviour, forgive them, for they know not what they do; but for ourselves, in those which we write over the doors of pest-houses, Lord have mercy upon us. If he, who in times of the greatest danger, when it most nearly concerned France to try the power of her gold in England, has been highly courted by her Tallard, and given very great demonstrations of his zeal to gratify the ambition of that kingdom, can make himself an interest, not only to be protected in his insolencies, but to be courted likewise by a party, and besides all this, to have the honour conferred upon him, of being made the leader of the blind; it is easy to see what in a short time must be our doom: that between the management and conduct of men of too much intrigue, and too little understanding, we must fall under the dominion of French tyranny and popery. This the Kentish gentlemen thought they had reason to fear, would be the effect of the measures taken by our parliament, before they offered their petition. To descend to the particulars of their proceedings, which brought them under the so universal censure and displeasure of the people, would be too invidious an undertaking, and raise this little discourse to a much greater bulk than I designed. My intention is only to shew, that the gentlemen had reasons to offer their petition at that time. If one or two good ones are sufficient to justify them, and they may be taken notice of without any great offence, I must desire my reader to rest satisfied with my mentioning them. Matters that are nicer, and will not so well bear touching, I leave to be handled by men of more penetration, whose fears (I will not say concern) for the public are greater perhaps than mine are. If those petitioners were really persuaded that French gold had any influence in the management of public affairs, it was a sufficient reason for them to endeavour by such a petition, either to make the ho—se of com—s take other measures, or to dispose the other parts of the kingdom to follow their example. That they were of this persuasion, we have very good reasons to believe. We know what one of the five gentlemen said in a very public place, some weeks before the petition was offered, to sir Fr—cis Ch—ld, a member of parliament, concerning the inclination of the house of c——s to serve the French king. It is not probable that that gentleman would have been so bold to speak openly, to a member who was intirely in the interest of that party which he suspected, words which the other called seditious, if he had not reckoned it a service he owed his country, in a very great and dangerous crisis. About the time they petitioned, this suspicion was grown so universal, that what a gentleman told sir Ed—rd Sey—r in Hampshire, near the time the parliament rose, that we were bought and sold, was the voice of the people every where. This jealousy must run very high, and there must sure be good grounds for it, when a very great lord could say, in a very august assembly, just two days after that petition was delivered, that some things that were done, shewed that there was Fr—ch money in the case. But this was not all. Those gentlemen saw, as I observed before, that not only all the leading men of that party, which bore sway in the ho—se of com—ns, but some leading men in the nation likewise, used all possible endeavours to drive people from the thoughts of war. This those gentlemen, and the bulk of the people, thought the greatest service that could be done to France, and that the certain consequence of that would be, that in a little time we must be content with what religion, what liberty, and what trade France would be pleased to allow us. This being their sense of things, it was a sufficient reason for them to do what they did. What a happy nation should we be, if others would imitate them in their zeal, and virtuous concern for the public! Now is the time for Englishmen to shew themselves. Things are brought to the highest crisis that ever was seen in Europe. France plainly designs the universal monarchy: it is war only can determine, whether she shall have it or no. If she prevail, our fate is manifest; we must come under the dominion of French popery and tyranny. If she miscarry, the misery and devastation which she will bring into her kingdom, will be greater than, perhaps, she may be ever able to surmount. In this case England will not only continue in possession of her religion and liberties, but become the greatest nation in this western world. What our fate shall be, depends upon our management now. It is plain, that without a war we are undone, so we may be with it, if those who have the management of public affairs, should happen to be in the interest of the abdicated family, or common enemy, or should be under the old prejudices against the Dutch which were bred in the late reigns. We know what suspicions we have had, and what grounds there were for them; this makes it absolutely necessary, that the nation represent itself anew. It would be very surprizing to see the present par—nt sit again, when a great party in it has given such umbrage to the nation; when they were thought (as far as it was possible for them to venture, without plainly discovering themselves, and becoming too notorious) to do all that France could desire to have done. If their conduct throughout the session was such as made it evident, that their address to the king, towards the latter end, was only designed to prevent their dissolution, or secure their election if they should be dissolved; it would be as strange to see this par—nt continue, as it will be to see some chosen again, if it should be dissolved. It is upon that election the fate of England depends: if care be taken to chuse persons, who love our present Protestant settlement, and have no manner of bias to France; or the abdicated family, nothing can prevent the ruin of France, and England's being made a great and flourishing kingdom.

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N° XIX.

A General Abstract of the RECEIPTS and ISSUES of the PUBLIC REVENUE, TAXES, and LOANS, during the Reign of his late Majesty King William; that is to say, from the 5th of November 1688, from which Time the Parliament appointed the said Accounts should commence, to the 25th of March 1702; being the first Determination of the Accounts after the Demise of his said late Majesty; which happened on the 8th of March preceding.

CUSTOMS. RECEIPTS.	£.	s.	d.
Customs besides Drawbacks, Damages, Salaries, &c.	4,285,697	1	6
Ditto from Christmas 1699 to the 1st of August 1706	934,923	8	0½
Impositions on Linnen, Silk, &c. that ended 1st July 1690	143,880	9	6½
Ditto on Tobacco and Sugar	1,374,232	17	8½
Ditto on Wines and Vinegar	1,750,388	15	7
Ditto on East-India Goods, &c. from Christmas 1690	1,801,906	2	9½
Additional Imposition on Merchandizes, and commenced 1st March 1692-3 to the 1st March 1696, thence to the 1st August 1706	501,120	2	0½
New Duty on Coffee and Tea, &c. and ditto continued for paying Interest of Irish Transports	105,203	11	3½
Additional Duty on Brandy from the 1st March 1693-4	22,691	7	0½
Tunnage Duty from 1st June 1694 and ending 17th May 1696	175,335	16	6
Duty on Coals taken off 17th May 1696	22,004	19	3
Duty on Glass and Earthen Ware as relating to the Coal Act	7,750	0	0
25 per Cent. French Goods	161,349	9	2
New Duty on Coals for 5 Years from 15th May 1698	465,857	6	1
5*s.* per Tun French Ships, granted 12 Car. II.	1,908	7	2
22 per Pound East-India Silks	19,140	5	5
Plantation Duty, granted 25th Ch. II.	4,708	16	2
Arrears of Additional Impositions on Wine entered in 1689	1,900	0	0
New Subsidy of Tunnage and Poundage for two Years and three quarters	464,297	8	9½
Additional Tunnage and Poundage from January 1699, for his Majesty's Life	634,548	11	7½
Cinders 5*s.* per Chaldron	1,221	0	3½
15 per Cent. on India wrought Silks and Muslins, granted 11 and 12 William	116,767	18	6
£.	13,296,833	14	6

EXCISE.			
Hereditary and Temporary Excise Neat	5,918,887	17	4½
Low Wines, from 24th December 1690	166,392	17	6
Double Excise from 17th November 1690 to ditto 1691	612,291	3	3½
Additional Excise of 9*d.* per Barrel, from Michaelmas 1689, appropriated	339,610	15	9½
Additional Excise, viz. 9*d.* per Barrel, determined 24th July 1692, and double 9*d.* commenced 17th November 1691, ended 17th May	1,732,497	15	3
Complements of Excise, 24*d.* per Barrel to 24th July 1692, and 30*d.* per Barrel thence to the 17th November 1692	381,080	5	0½
Excise for 99 Years in the Million Fund Act, from 25th January 1692-3	1,229,727	17	5½
Imp. on Salt from 25th March 1694, 12*d.* per Bushel, granted 7 William, joined with Whale Fins, Scots Linnen, &c. granted 9 and 10 William for 8 Years, from 10th July 1698	436,724	3	0½
9*d.* Excise, continued from 17th May 1697 for Million Lottery Tickets, thence for 16 Years	644,396	14	6
9*d.* Excise, made Hereditary from 17th May 1697 for the Bank, and Annuities for 1, 2, and 3 Lives, in lieu of 5-7ths and 3-7ths Tunnage	618,532	5	6½
Duty on Malt, from 20th April 1697	922,983	10	3½
Additional Duty on Salt of 8*d.* from 25th March 1697 to 25th Dec. 1699	103,191	16	3½
20*d.* per Bushel Salt from 1st July 1698 (for the East India Company) and 8*d.* from 25th December 1699	276,474	12	6

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Excise. RECEIPTS.	£.	s.	d.
Duty on Leather	208,102	16	9
Whale Fins, Scots Linnen, and Arrears of Glass Ware, &c.	46,420	15	10
Low Wines joined with Coffee and 15 per Cent. Muslins, by an Act 12 and 13 William	12,012	13	2
£.	13,649,328	0	5¼

Hearth Money, Letter Money, &c.

Hearth Money, besides Charges of getting in	221,763	18	0¾
Letter Money, besides Charges of Management	871,054	17	11½
Small Branches and Casualties	915,778	11	8½
£.	2,308,597	7	8¼

Land Taxes.

Present Aid or Six Months Tax for 1689	4,914	7	3
First Aid for 12*d.* in the Pound for 1689	496,108	6	1
2*s.* Aid for 1690	1,015,732	2	7
Additional 12*d.* for 1690	507,866	0	8½
First Twelve Months Aid for 1691	1,613,747	9	1
Second ditto for 1692	1,613,874	13	5
First 4*s.* Aid for 1693	1,922,712	19	4½
Second ditto for 1694	1,913,488	16	4½
Third ditto for 1695	1,860,039	10	2
Fourth ditto for 1696	1,736,248	1	10½
3*s.* Aid for 1697	1,244,789	4	0
Additional 12*d.* for 1697	418,646	10	11
Second 3*s.* Aid for 1,484,015*l.* 1*s.* 11*d.* ¼ over and above 229,696*l.* 4*s.* 10*d.* transferred to pay Annuities to the Bank, &c. for 1698	1,188,021	18	1
Third 3*s.* Aid for the same Sum for 1699	1,431,771	6	8½
Second 2*s.* Aid for 989,965*l.* 19*s.* 6*d.* for 1700	951,066	6	5
1-3rd and 2-3rds of fourth 3*s.* Aid	859,051	15	2½
£.	19,174,059	8	3½

Polls.

First Poll for 1689	288,438	2	1½
Review of the first Poll, and an Additional Poll for 1690	23,059	7	1
Second Poll for 1690	239,958	7	11½
First Quarterly Poll for 1692	579,178	11	2½
Review of ditto for 1693	6,388	4	0
Second Quarterly Poll for 1694	486,321	2	2½
Capitation for 1697	612,912	16	0
Third Quarterly Poll for 1698	321,397	16	3½
£.	2,557,649	7	7½

Promiscuous Taxes.

Smugglers Fines to Michaelmas 1698	19,500	0	0
Exchequer Bills issued by Virtue of an Act for Establishing a Land Bank Anno 1695 (158,589*l.* being repaid as per contra)	159,173	1	0
Joint Stock charged by Act of Parliament 1692, two Quarterly Payments	43,219	0	0
First Million Act in 1693, Annuities by 9*d.* Excise for 99 Years	1,000,000	0	0
Fines and Rent on Hackney Coaches for 1694	41,150	0	0
Paper and Parchment Duties for 1694, continued to 28th of June 1698	205,566	1	2½
New Duties on ditto for two Years, from the 1st of March 1698	17,813	8	9½
Million Lottery or Contributions on Salt for 1694	934,512	17	7
On the Tunnage Act by the Bank of England for 1694	1,200,000	0	0
On Annuities for 1694 for 1, 2, and 3 Lives for 300,000*l.*	300,000	0	0
Duties on Marriages, Births, Burials, &c. commencing 1st May 1695 and ending 1st May 1700	258,094	1	10½
Subscriptions to the National Land Bank	1,775	0	0
Duties on Houses or Windows	53,466	10	0½
Money or Plate at 6*s.* an Ounce for Malt Lottery Tickets	17,615	13	1

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Promiscuous Taxes. RECEIPTS.	£.	s.	d.
Additional Duty on Stampt Paper, made perpetual with Salt, for the East India Company	153,487	11	5½
Subscriptions of 2,000,000*l.* for East-India Trade	1,882,413	9	0½
Parchment and Paper Stampt Duties continued from 1698 to 1st Aug. 1706	152,098	16	10
Purchasing of Reversionary Annuities by several Acts of Parliament passed in several Years	581,750	15	0
Duties on Glass and Earthern Ware	15,732	1	7
Licences to Hawkers and Pedlars	26,513	15	1
Duties on Marriages, Births, &c. continued from 1st May 1700 to 1st August 1700	17,423	16	2½
£.	7,531,305	18	11½

Divers Receipts.			
Letter Money overpaid in 1696	102	16	5
Surcharged on the Commissioners of Excise in 1697	89,695	13	6½
Coinage Money from 1698 inclusive in the other Years placed with small Branches	42,658	10	1
Tellers Malt Benefits in 1698	1,715	0	0
Imprest repaid in 1696 and 1699	162,036	4	2½
Accompts of New Money from the Mint in Years 97, 98, and 99, in Aid of 2,599,797*l.* 14*s.* 10*d.* per contra, deficient at Michaelmas 1696	184,656	17	11½
Poll Anno 1697	50	0	0
£.	480,915	2	2½

General Total			£.	58,698,688 19 8
of the General Account of Money borrowed and repaid within the Time of this Account in several Years the Money borrowed exceeding the Money repaid in those Years respectively the Sum of 13,348,680*l.* 5*s.* 10*d.*½. though in other Years the Money repaid exceeded the Money borrowed in those Years respectively the Sum of 3,341,903*l.* 8*s.* 8*d.* ¾ as per contra, which reduceth the Neat Money more than Repaid during the whole Time of this Account to 10,006,776*l.* 17*s.* 1*d.* ½				13,348,680 5 10½
			£.	72,041,369 5 6½
That Remained on the 5th of November 1688 in the Exchequer, in the Hands of the several Receivers				80,138 18 0½
			Error	½
			£.	72,127,508 3 6½

Navy. ISSUES.					
To Anthony Lord Viscount Faulkland, late Treasurer of the Navy, for the Navy and Victualling	198,068	0	1		
To the Earl of Orford, late Treasurer of the Navy, on the same Account	16,940,521	9	10¼	19,822,141	4 6½
To the Right Hon. Sir Thomas Littleton, Treasurer of the Navy, on the same Account	2,683,551	14	7		
Army.—For the Service of Ireland.					
Mr. Harboard 1,073,228 12 7½					
Mr. Henly 4,560 0 7½	3,851,655	1	0¼		
Mr. Fox and Lord Coningsby 2,773,806 7 9½					
To the Earl of Ranelagh for the Forces under his pay	18,164,951	14	0½	22,017,706	15 0½
To Colonel Hill, Governor of the Leeward Islands, for his own Soldiers and Arrears	1,100	0	0		
Ordnance.					
To the Treasurer of the Ordnance for Sea and Land Service				3,008,535	16 10
£.				44,848,383	16 5½

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Civil List. ISSUES.				£.	s.	d.
To the Cofferer of the Household				1,360,130	2	2¼
Treasurer of the Chambers	484,763	16	1½	485,092	12	1½
Ditto for the Charges of the late Queen's Coffins	328	16	0			
Great Wardrobe	319,876	8	2¾	362,720	11	7¾
Ditto for the late Queen's Mourning	42,844	4	5			
Robes	57,128	2	2½	62,248	3	5½
Ditto to Lord Sidney, upon Account for Cloaths furnished K. Charles II. when he was Master of that Office	5,128	0	3			
Paymaster of the Works	474,050	15	1½	483,050	15	1½
Ditto on account of the late Queen's Funeral	4,000	0	0			
Mr. Roberts, Paymaster of the Works at Windsor, on Account for Works there over and above what has been paid thereunto out of the Revenues of the Honour and Castle of Windsor	5,000	0	0			
Gardens: Upon Account of making his Majesty's Gardens, over and above the Gardeners Salaries, payable by the Treasurer of the Chamber until 1695	115,097	12	7½	133,797	12	7½
Gardens: On the Contract for 4,800 *l.* per Ann. commencing from	16,800	0	0			
Gardens: On the New Allowance of 2,600 *l.* per Ann. which commenced from Christmas 1700	1,900	0	0			
Stables for buying Horses, and for Liveries and Extraordinaries 235,965 *l.* 15 *s.* 3 *d.* ½ Foreign Ministers for Ordinaries and Extraordinaries	402,753	7	2½	98,719	2	6
Fees and Salaries				858,056	16	9
Pensions and Annuities				686,189	17	7
Queen Dowager				178,031	15	4
Late Queen's Treasurer				506,386	10	0½
Ditto for French Protestants				75,000	0	0
Prince and Princes of Denmark				638,921	15	7½
Duke of Gloucester, on 1,500 *l.* per Ann.				37,500	0	0
Band of Gentlemen Pensioners				69,000	0	0
Secret Service: Secretaries of the Treasury	616,323	7	2	775,387	6	8
Secret Service: Secretaries of State	76,968	19	6			
Secret Service: Particular Persons, by his Majesty's Warrants under his Royal Sign Man.	82,100	0	0			
Privy Purse	483,555	0	0			
Ditto for purchasing Fee Farm Rents: To the Earl of Portland	24,571	5	4	541,726	5	4
Ditto for purchasing Fee Farm Rents: To the Lord Somers & al.	33,600	0	0			
Jewels				66,06	0	0
Plate				102,843	13	8
Bounties paid at the Exchequer to several Persons by his Majesty's particular Warrants in that Behalf				226,823	19	1
Monsieur Fleaury for Goods taken from the French at Bourbon Fort, Hudson's Bay, and given to the Hudson's Bay Company, which, by the Treaty of Reswick, were to be restored				1,086	18	0
Subscriber of 2,000,000 *l.* for the E. I. Trade an Allowance of 1 *l.* per Cent.				20,000	0	0
The Receivers of 2,000,000 *l.* in Reward, and Charges in passing Accounts				16,000	0	0
To Mr. Stratford, in part of 20,000 *l.* in Cloth sent to Sweden				12,000	0	0
Earl of Ranelagh for Lord Fairfax 600 *l.* Bounty to Officers Widows 1670 *l.* To French Officers 730 *l.* For Liveries for Lumley's Trumpeters 393 *l.* 3 *s.* And for Court Drums and Fifes, Salary 240 *l.*				3,634	3	0
Contingents of divers Natures, viz. Law Charges, Liberates of the Exchequer, Riding Charges to Messengers of the Court and Receipt of Exchequer, Rewards and Extraordinary Charges to Receivers of Taxes, and to several others on sundry Occasions, Surplusages of Accounts, Printers Bills, sundry Works and Repairs by the Surveyors of the Woods, the private Roads, and other particular Offices; his Majesty's Subscription of 10,000 *l.* to the Bank of England, a like Sum to the New East-India Company, as also 3,000 *l.* for carrying on the Trade, Bounties for apprehending Highwaymen, Traitors and Libellers, Money paid for purchasing Land to be laid into his Majesty's Park at Windsor, and very many other accidental Payments				534,809	1	10¼
				£. 8,880,506	2	9

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Divers Issues. ISSUES.	£.	s.	d.
States General, pursuant to an Act of Parliament, Anno 1689	600,000	0	0
Servants of King Charles II. by ditto Act	60,000	0	0
To the Mint out of the Coinage Duty, &c. which includes several Payments relating to the Recoinage in general	259,584	17	7¼
Redemption of Captives	1,000	0	0
Privy Purse of the late King James at the Exchequer	200	0	0
Principal Money lent tempore Jacobi II.	138,412	19	9
To several for Money advanced in the West in 1688	4,000	0	0
Interest Money paid to several out of the Revenues, Taxes and Loans, and for divers other Causes	5,216,530	2	4½
Interest to the Bank of England	875,880	16	9½
Annuities { On Survivorship, and 14 per Cent. on the Million Act, &c.	1,079,809	2	9½
Annuities { On the Tunnage for 1, 2, and 3 Lives for 300,000 *l.*	287,059	14	11½
Annuities { On Lottery for a Million paid in for 16 Years Annuity	1,049,776	15	5½
To the Malt Lottery Office, in part of 1,200,000 *l.* Principal and Interest	760,142	6	0
To the Treasurer of the Excise, to satisfy Tallies of Excise and Post Office	467,000	0	0
To the English East-India Company and general Society trading thither, on 160,000 *l.* per Ann.	429,962	3	11½
To the Trustees for circulating Exchequer Bills, for Premiums, Salaries, &c. besides 43,455 *l* inclusive, in Account of Interest 1697	254,119	3	7½
Principal Money repaid, more than borrowed, for several Years	3,341,903	8	8½
To Receivers of Taxes, in Reward for Extraordinaries	5,446	9	8½
To Peter Hume, Gentleman, to be applied as his Majesty should direct	5,200	0	0
New Money, in part of 122,584 *l.* 2 *s.* 1 *d.* old Money re-coined, paid the Army and Navy	84,963	8	8½
To the Commissioners of Excise in New Money, the proceed of Old Money received from them	56,988	11	5
Clipt Money delivered to be re-coined more than it produced to Michaelmas 1696, in Aid whereof there was returned from the Mint in after Years more than was sent thither in those Years as per Contra, 184,656 *l.* 17 *s.* 11 *d.* ½, which reduceth the general Deficiency of the Re-coinage to 2,415,140 *l.* 16 *s.* 10 *d.* ½, the Deficiency in the Year 1696, amounting to	2,599,797	14	10
To the four Tellers of the Exchequer in Exchequer Bills, to be delivered to such Persons as brought Money for them in 1695	158,589	0	0
Imprest Money re-paid to the Treasurer of the Navy, being old Money new coined	4,422	3	7½
New Money to the Earl of Ranelagh, the Proceed of 13,000 *l.* in old hammered Money	6,497	9	0½
To several, for a Reward of 6 *s.* an Ounce for Wrought Plate brought in to be coined	3,846	17	8½
To the Treasurer of Greenwich Hospital, pursuant to the Address of Parliament	19,500	0	0
To the Commissioners for forfeited Estates in Ireland	3,133	15	0
To the Commissioners for stating and determining Accounts for Incidents, &c.	3,500	0	0
To the Tellers of the Exchequer for a Loss on 89,196½ Guineas, received at 22 *s.* and issued at 21 *s.* 6 *d.*	2,229	18	3
Interest of the Bankers Debt	466	7	7
	17,779,243	1	11
General Total	£. 71,508,133	1	1½
That remained a Balance at the Foot of the half Year's Account, ending at Lady-Day, 1702	619,159	13	6½
	72,127,292	14	7½
Add that remained at Michaelmas 1699, more than was carried forward to the Account of 1700, occasioned by several Sums then remaining in the Hands of several Receivers, for which they afterwards accompted with the Auditors of the Imprest	1,326	7	7½
Deduct that was carried to Account from Michaelmas 1701, more than the Balance at Michaelmas 1701, occasioned by so much less applied out of the 2d and 3d Aid, Anno 1699, to pay Arrears on Annuities for 1, 2, and 3 Lives, and was afterwards applied to the Cancelling of Exchequer Bills instead of those Annuities	1,110	12	8½
	£. 72,127,080	3	6½

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N° XX.

A List of Public Acts, passed from the Revolution in the Year 1688 to the Accession of Queen Anne, in the Year 1701-2.

Anno primo W. & M. Sess. 1.

1. AN Act for removing and preventing all questions and disputes concerning the assembling and sitting of this present parliament. 2. For impowering his majesty to apprehend and detain such persons as he shall find just cause to suspect are conspiring against the government. 3. For the granting a present aid to their majesties. 4. For reviving of actions and process lately depending in the courts at Westminster, and discontinued by the not holding of Hilary term, and for supplying other defects relating to proceedings at law. 5. For punishing officers or soldiers who shall mutiny or desert their majesties service. 6. For establishing the coronation oath. 7. For impowering his majesty to apprehend and detain such persons as he shall find just cause to suspect are conspiring against the government. 8. For the abrogating of the oaths of supremacy and allegiance, and appointing other oaths. 9. For the amoving papists, and reputed papists, from the cities of London and Westminster, and ten miles distant from the same. 10. For the taking away the revenue arising by hearth money. 11. For explaining and making effectual a statute made in the first year of king James the second, concerning the haven and piers of Great Yarmouth. 12. For the encouraging the exportation of corn. 13. For raising money by a poll, and otherwise, towards the reducing of Ireland. 14. For preventing doubts and questions concerning the collecting the public revenue. 15. For the better securing the government, by disarming papists and reputed papists. 16. That the simoniacal promotion of one person may not prejudice another. 17. For rectifying a mistake in a certain act of this present parliament, for the amoving papists from the cities of London and Westminster. 18. For exempting their majesties protestant subjects, dissenting from the church of England, from the penalties of certain laws. 19. For impowering their majesties to commit, without bail, such persons as they shall find just cause to suspect are conspiring against the government. 20. For a grant to their majesties of an aid of twelve-pence in the pound for one year, for the necessary defence of their realms. 21. For enabling lords commissioners for the great seal to execute the office of lord chancellor, or lord keeper. 22. For the exportation of beer, ale, cyder, and mum. 23. For reviving two former acts for exporting of leather. 24. For an additional duty of excise upon beer, ale, and other liquors. 25. To regulate the administration of the oaths required to be taken by commission or warrant officers employed in their majesties service by land, by virtue of an act made in this present session of parliament, intitled, an act for the abrogating of the oaths of supremacy and allegiance, and appointing other oaths. 26. To vest in the two universities the presentations of benefices belonging to papists. 27. For taking away the court holden before the president and council of the marches of Wales. 28 For appropriating certain duties for paying the states general of the United Provinces their charges for his majesty's expedition into this kingdom, and for other uses. 29. For relief of the protestant Irish clergy. 30. To repeal the statute made in the fifth year of king Henry the fourth, against the multiplying gold and silver. 31. For the appointing commissioners for the executing an act of this present parliament, intitled, an act for a grant to their majesties of an aid of twelve-pence in the pound for one year, for the necessary defence of their realms. 32. For the better preventing the exportation of wool, and encouraging the woollen manufactures of this kingdom. 33. For explaining part of an act, made in the first year of king James the first, concerning tanned leather. 34. For prohibiting all trade and commerce with France.

1 *W. & M. Sess.* 2. 1. For a grant to their majesties of an aid of two shillings in the pound for one year. 2. Declaring the rights and liberties of the subject, and settling the succession of the crown. 3. For preventing all doubts and questions concerning the collecting the public revenue. 4. For punishing officers or soldiers who shall mutiny or desert their majesties service; and for punishing false musters. 5. For a grant to their majesties of an additional aid of twelve-pence in the pound for one year. 6. For the charging and collecting the duties upon coffee, tea, and chocolate, at the custom-house. 7. For review of the late poll granted to their majesties, and for an additional poll, towards the reducing of Ireland. 8. For preventing vexatious suits against such as acted in order to the bringing in their majesties, or for their service. 9 For the better security and relief of their majesties protestant subjects of Ireland.

2 *W. & M. Sess.* 1. 1. For recognizing king William and queen Mary, and for avoiding all questions touching the acts made in the parliament assembled at Westminster the 13th day of February, 1688. 2. For raising money by a poll, and otherwise, towards the reducing of Ireland, and prosecuting the war against France. 3. For granting to their majesties for their lives, and the life of the survivor of them, certain impositions upon beer, ale, and other li-

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quors. 4. For granting to their majesties a subsidy of tunnage and poundage, and other sums of money payable upon merchandize exported and imported. 5. For enabling the sale of goods distrained for rent, in case the rent be not paid in a reasonable time. 6. For the exercise of the government by her majesty, during his majesty's absence. 7. To declare the right and freedom of election of members to serve in parliament for the Cinque Ports. 8. For reversing the judgment in a *Quo Warranto* against the city of London, and for restoring the city of London to its ancient rights and privileges. 9. For the discouraging the importation of thrown silk. 10. Of the king's and queen's most gracious, general, and free pardon.

2 *W. & M. Sess.* 2. 1. For granting an aid to their majesties of the sum of 1,651,702*l.* 18*s.* 2. Concerning the commissioners of the admiralty. 3. For doubling the duty of excise upon beer, ale, and other liquors, during the space of one year. 4. For granting to their majesties certain impositions upon all East India goods and merchandizes, and upon all wrought silks, and several other goods and merchandize, to be imported after the 25th day of December, 1690. 5. For the continuance of several former acts therein mentioned, for the laying several duties upon wines, vinegar, and tobacco. 6. For punishing officers and soldiers who shall mutiny or desert their majesties service, and for punishing false musters. 7. For reviving a former act for regulating the measures and prices of coals. 8. For paving and cleansing the streets in the cities of London and Westminster, and suburbs and liberties thereof, and out-parishes in the county of Middlesex, and in the borough of Southwark, and other places within the weekly bills of mortality, in the county of Surry, and for regulating the markets therein mentioned. 9. For the encouraging the distilling of brandy and spirits from corn, and for laying several duties on low wines, or spirits of the first extraction. 10. For granting to their majesties several additional duties of excise upon beer, ale, and other liquors, for four years, from the time that an act for doubling the duties of excise upon beer, ale, and other liquors, during the space of one year, doth expire. 11. For appointing and enabling commissioners to examine, take, and state the public accounts of the kingdom. 12 For raising the militia of this kingdom for the year 1691, although the month's pay formerly advanced be not repaid. 13. For preventing vexatious suits against such as acted for their majesties service in defence of the kingdom. 14. For the more effectual putting in execution an act, intitled, an act for prohibiting all trade and commerce with France. 15. For relief of poor prisoners for debt or damages.

3 *W. & M.* 1. For granting to their majesties certain impositions upon beer, ale, and other liquors for one year. 2. For abrogating the oath of supremacy in Ireland, and appointing other oaths. 3. For the better ascertaining the tithes of hemp and flax. 4. For preserving two ships lading of bay salt, taken as prize, for the benefit of their majesties navy. 5. For granting an aid to their majesties of the sum of 1,651,702*l.* 18*s.*, towards the carrying on a vigorous war against France.

3 & 4 *W. & M.* 6. For raising money by a poll payable quarterly for one year, for the carrying on a vigorous war against France. 7. For raising the militia of this kingdom for the year 1692, although the month's pay formerly advanced be not repaid. 8. For the encouragement of the breeding and feeding of cattle. 9. To take away clergy from some offenders, and to bring others to punishment. 10. For the more effectual discovery and punishment of deer-stealers. 11. For the better explanation and supplying the defects of the former laws for the settlement of the poor. 12. For the better repairing and amending the highways, and for settling the rates of carriage of goods. 13. Against corresponding with their majesties enemies. 14. For relief of creditors against fraudulent devises. 15. For the better ordering and collecting the duty upon low wines and strong waters; and for preventing the abuses therein.

4 *W. & M.* 1. For granting to their majesties an aid of four shillings in the pound for one year, for carrying on a vigorous war against France. 2. That the inhabitants of the province of York may dispose of their personal estates by their wills, notwithstanding the custom of that province. 3. For granting to their majesties certain rates and duties of excise upon beer, ale, and other liquors, for securing certain recompences and advantages in the said act mentioned, to such persons as shall voluntarily advance the sum of 1,000,000*l.* towards carrying on the war against France. 4. For taking special bails in the country upon actions and suits depending in the courts of King's Bench, Common Pleas, and Exchequer, at Westminster.

4 & 5 *W. & M.* 5. For granting to their majesties certain additional impositions upon several goods and merchandizes, for the prosecuting the present war against France. 6. For raising the militia of this kingdom for the year 1693, although the month's pay formerly advanced be not repaid. 7. To prevent abuses committed by the traders in butter and cheese. 8. For encouraging the apprehending of highwaymen. 9. For reviving of two former acts of parliament for repairing the highways in the county of Hertford. 10. For prohibiting the importation of all foreign hair buttons. 11. For examining, taking, and stating the public accounts of this kingdom. 12. To make parishioners of the church united contributors to the repairs and ornaments of the church to whom the union is made. 13. For punishing officers and soldiers who shall mutiny or desert their majesties service; and for punishing false musters, and for the payment of quarters. 14. For the review of the quarterly poll granted to their majesties in the last session of this present

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parliament. 15. For continuing certain acts therein mentioned, and for charging several joint stocks. 16. To prevent frauds by clandestine mortgages. 17. For the regaining, encouraging, and settling the Greenland trade. 18. To prevent malicious informations in the court of King's Bench, and for the more easy reversal of outlawries in the same court. 19. For preventing suits against such as acted for their majesties service in defence of the kingdom. 20. For the better discovery of judgments in the courts of King's Bench, Common Pleas, and Exchequer, at Westminster. 21. For delivering declarations to prisoners. 22. For regulating proceedings in the Crown-office in the court of King's Bench at Westminster. 23. For the more easy discovery and conviction of such as shall destroy the game of this kingdom. 24. For reviving, continuing, and explaining several laws therein mentioned, which are expired and near expiring. 25. For continuing the acts for prohibiting all trade and commerce with France, and for the encouragement of privateers.

5 *W. & M.* 1. For granting to their majesties an aid of four shillings in the pound for one year, for carrying on a vigorous war against France. 2. For repealing such parts of several former acts, as prevent or prohibit the importation of foreign brandy, aqua vitæ, and other spirits, and bacon, except from France. 3. For the importation of fine Italian, Sicilian, and Naples thrown silk. 4. To repeal a clause in the statute made in the 34th and 35th years of king Henry the eighth, by which justices of peace in Wales are limited to eight in each county. 5. To supply the deficiency of the money raised by a former act, intitled, An act for granting to their majesties certain rates and duties of excise upon beer, ale, and other liquors, for securing certain recompences and advantages in the said act mentioned, to such persons as shall voluntarily advance the sum of 1,000,000*l.* towards carrying on the war against France. 6. To prevent disputes and controversies concerning royal mines.

5 & 6, *W & M.* 7. For granting to their majesties certain rates and duties upon salt, and upon beer, ale, and other liquors, for securing certain recompences and advantages in the said act mentioned, to such persons as shall voluntarily advance the sum of 1,000,000*l.* towards carrying on the war against France. 8. For the explaining, and the more effectual execution of a former act, for the relief of poor prisoners. 9. For repeal of a clause in the statute of the fifth year of queen Elizabeth (containing divers orders for artificers and others) which relates to weavers of cloth. 10. For the relief of the orphans, and other creditors of the city of London. 11. To prevent delays of proceedings at the quarter sessions of the peace. 12. To take away the process for the *capiatur* fine, in the several courts at Westminster. 13. To repeal the statute made in the tenth year of king Edward the third, for finding sureties for the good abearing, by him or her that hath a pardon of felony. 14. For raising money by a poll, payable quarterly, for one year, for carrying on a vigorous war against France. 15. For continuing the act for punishing officers and soldiers who shall mutiny or desert their majesties service, and for punishing false musters, and for the payment of quarters, for one year longer. 16. For the importation of salt petre, for one year. 17. For the exportation of iron, copper, and mundick metal. 18. For the enabling their majesties to make grants, leases, and copies, of offices, lands, and hereditaments, parcel of their duchy of Cornwall, or annexed to the same: and for confirmation of leases and grants already made. 19. For raising the militia of this kingdom, for the year 1694, although the month's pay formerly advanced be not repaid. 20. For granting to their majesties several rates and duties upon tonnage of ships and vessels, and upon beer, ale, and other liquors, for securing certain recompences and advantages in the said act mentioned, to such persons as shall voluntarily advance the sum of 1,500,000*l.* towards carrying on the war against France. 21. For granting to their majesties several duties upon vellum, parchment, and paper, for four years, towards carrying on the war against France. 22. For the licensing and regulating hackney coaches, and stage coaches. 23. For appointing and enabling commissioners to examine, take, and state the public accounts of the kingdom. 24. For building good and defensible ships. 25. For the better discipline of their majesties navy royal.

6 *W. & M.* 1. For granting to their majesties a subsidy of tunnage and poundage, and other sums of money payable upon merchandizes exported and imported. 2. For the frequent meeting and calling of parliaments.

6 *W. III.* 3. For granting to his majesty an aid of four shillings in the pound, for one year; and for applying the yearly sum of 300,000*l.* for five years, out of the duties of tonnage and poundage, and other sums of money, payable upon merchandizes exported and imported, for carrying on the war against France with vigour. 4. For exempting apothecaries from serving the offices of constable, scavenger, and other parish and ward offices, and from serving upon juries.

6 & 7 *W. III.* 5. For enabling such persons as have estates for life in annuities, payable by several former acts therein mentioned, to purchase and obtain further or more certain interest in such annuities; and in default thereof, for admitting other persons to purchase or obtain the same, for raising moneys for carrying on the war against France. 6. For granting to his majesty certain rates and duties upon marriages, births, and burials, and upon bachelors and widowers, for the term of five years, for carrying on the war against France with vigour. 7. For granting to his majesty several additional duties upon coffee, tea, chocolate, and spices, towards satisfaction of the

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debts due for transport service, for the reduction of Ireland. 8. For continuing two former acts for punishing officers and soldiers who shall mutiny or desert his majesty's service, and for punishing false musters, and for payment of quarters, for one year longer. 9. For appointing and enabling commissioners to examine, take, and state the public accounts. 10. For the better admeasurement of keels, and keel boats, in the port of Newcastle, and the members thereunto belonging. 11. For the more effectual suppressing profane cursing and swearing. 12. For explaining and regulating several doubts, duties, and penalties in the late act for granting several duties upon vellum, parchment, and paper; and for ascertaining the admeasurement of the tonnage of ships. 13. For raising the militia of this kingdom for the year 1695, and for repealing the statute of 2 and 3 Edw. 6. intitled, An act against shooting of hail shot. 14. For continuing several laws therein mentioned. 15. To indemnify sir Thomas Cooke from actions which he might be liable to, by reason of his discovering to whom he paid and distributed several sums of money therein mentioned to be received out of the treasure of the East India company, or for any prosecution for such distribution. 16. To prevent exactions of the occupiers of locks and wears upon the river of Thames, westward, and for ascertaining the rates of water carriage upon the said river. 17. To prevent counterfeiting and clipping the coin of this kingdom. 18. For granting to his majesty certain duties upon glass ware, stone, and earthen bottles, coals, and culm, for carrying on the war against France. 19. For imprisoning sir Thomas Cooke, sir Bazil Firebrace, Charles Bates, esq. and James Craggs, and restraining them from alienating their estates. 20. For the king's most gracious, general, and free pardon.

7 W. III. 1. For remedying the ill state of the coin of the kingdom. 2. For enlarging the times to come in and purchase certain annuities therein mentioned, and for continuing the duties formerly charged on low wines, or spirits of the first extraction, for carrying on the war against France. 3. For regulating of trials in cases of treason and misprision of treason. 4. For preventing charge and expence in elections of members to serve in parliament. 5. For granting to his majesty an aid of four shillings in the pound for one year, for carrying on the war against France.

7 & 8 W. III. 6. For the more easy recovery of small tithes. 7. To prevent false and double returns of members to serve in parliament. 8. For taking, examining, and stating the public accounts. 9. For repairing the highways between the city of London and the town of Harwich, in the county of Essex. 10. For continuing several duties granted by former acts upon wine and vinegar, and upon tobacco, and East India goods, and other merchandize imported, for carrying on the war against France. 11. For impowering his majesty to apprehend and detain such persons, as he shall find cause to suspect are conspiring against his royal person and government. 12. For relief of poor prisoners for debt or damages. 13. For taking off the obligation and encouragement for coining guineas, for a certain time therein mentioned. 14. For making navigable the rivers of Wye, and Lugg, in the county of Hereford. 15. For the continuing, meeting, and sitting of a parliament, in case of the death or demise of his majesty, his heirs and successors. 16. For raising the militia of this kingdom for the year 1696, although the month's pay formerly advanced be not repaid. 17. To continue four former acts for preventing theft and rapine upon the northern borders of England. 18. For granting to his majesty several rates and duties upon houses, for making good the deficiency of the clipt money. 19. To encourage the bringing plate into the mint, to be coined; and for the further remedying the ill state of the coin of the kingdom. 20. For granting to his majesty an additional duty upon all French goods and merchandize. 21. For the increase and encouragement of seamen. 22. For preventing frauds, and regulating abuses in the plantation trade. 23. For continuing several former acts for punishing officers and soldiers who shall mutiny or desert his majesty's service, and for punishing false musters, and for payment of quarters, for one year longer. 24. Requiring the practisers of the law to take the oaths, and subscribe the declaration therein mentioned. 25. For the further regulating elections of members to serve in parliament; and for preventing irregular proceedings of sheriffs, and other officers, in the electing and returning such members. 26. For repairing the highways between Wymondham and Attleborough, in the county of Norfolk. 27. For the better security of his majesty's royal person and government. 28. For the more effectually preventing the exportation of wool, and for the encouraging the importation thereof from Ireland. 29. For the better amending and repairing the highways, and explanation of the laws relating thereto. 30. For laying several duties upon low wines, or spirits of the first extraction, and for preventing the frauds and abuses of brewers, distillers, and other persons chargeable with the duties of excise. 31. For continuing to his majesty certain duties upon salt, glass wares, stone and earthen wares, and for granting several duties upon tobacco pipes, and other earthen wares, for carrying on the war against France, and for establishing a national land-bank, and for taking off the duties upon tonnage of ships, and upon coals. 32. For the ease of jurors, and better regulating of juries. 33. For the better encouragement of the Greenland trade. 34. That the solemn affirmation and declaration of the people called Quakers, shall be accepted instead of an oath in the usual form. 35. For the enforcing the laws which restrain marriages without licence or banns; and for the better registering marriages, births, and burials. 36. For continuing several acts of

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parliament therein mentioned. 37. For the encouragement of charitable gifts and dispositions. 38. To take away the custom of Wales, which hinder persons from disposing their personal estates by their wills. 39. For encouraging the linen manufacture of Ireland, and bringing flax and hemp into, and the making of sail-cloth in this kingdom.

8 *W. III.* 1. For the importing and coining guineas and half guineas. 2. For the further remedying the ill state of the coin of the kingdom. 3. To explain that part of an act passed the last session of parliament, for laying several duties on low wines, and spirits of the first extraction, and for preventing the frauds and abuses of brewers, distillers, and other persons chargeable with the duties of excise, which relates to the payment of tallies, and the interest thereof. 4. To attaint sir John Fenwick, bart. of high treason. 5. To attaint such of the persons concerned in the late horrid conspiracy to assassinate his majesty's royal person, who are fled from justice, unless they render themselves to justice, and for continuing several others of the said conspirators in custody. 6. For granting an aid to his majesty, as well by a land tax, as by several subsidies and other duties, payable for one year.

8 & 9 *W. III.* 7. For granting to his majesty several duties upon paper, vellum, and parchment, to encourage the bringing of plate and hammered money into the mints to be coined. 8. For encouraging the bringing in of wrought plate to be coined. 9. To restore the market at Blackwell-Hall to the clothiers, and for regulating the factors there. 10. To enable the returns of juries as formerly, until the 1st of November, 1697. 11. For the better preventing frivolous and vexatious suits. 12. For continuing several additional impositions upon several goods and merchandises. 13. For continuing several former acts for punishing officers and soldiers, who shall mutiny or desert his majesty's service, and for punishing false musters, and for payment of quarters, for one year longer. 14. For completing the building and adorning the cathedral church of St. Paul, London, and for repairing the collegiate church of St. Peter, Westminster. 15. For repairing the highway between Ryegate, in the county of Surry, and Crawley in the county of Sussex. 16. For enlarging common highways. 17. For paving and regulating the Haymarket in the parishes of St. Martin in the Fields, and St. James, within the liberty of Westminster. 18. For relief of creditors, by making compositions with their debtors in case two thirds in number and value do agree. 19. For repealing a clause in a former act relating to party guiles, and, for the better preventing frauds and abuses of brewers, and others, chargeable with the duties of excise. 20. For making good the deficiencies of several funds therein mentioned, and for enlarging the capital stock of the bank of England, and for raising the public credit. 21. For laying a duty upon leather, for the term of three years, and making other provision for answering the deficiencies as well of the late duties upon coals and culm, as for paying the annuities upon the lottery, and for lives, charged on the tunnage of ships, and the duties upon salt. 22. For granting to his majesty certain duties upon malt, mum, sweets, cyder, and perry, as well towards carrying on the war against France, as for the necessary expence of his majesty's houshold, and other occasions. 23. To enforce the act for the increase and encouragement of seamen. 24. For granting to his majesty a further subsidy of tunnage and poundage upon merchandises imported, for the term of two years and three quarters, and an additional land tax for one year, for carrying on the war against France. 25. For licensing hawkers and pedlars, for a further provision for payment of the interest of the transport debt for the reducing of Ireland. 26. For the better preventing the counterfeiting the current coin of this kingdom. 27. For the more effectual relief of creditors in cases of escapes, and for preventing abuses in prisons, and pretended privileged places. 28. For the better observation of the course anciently used in the receipt of exchequer. 29. For the repair of the piers of Bridlington, alias Burlington, in the East Riding of the county of York. 30. For supplying some defects in the laws for the relief of the poor of this kingdom. 31. For the easier obtaining partitions of lands in coparcenary, joint tenancy, and tenancy in common. 32. To restrain the number and ill practice of brokers and stock jobbers. 33. To make perpetual and more effectual an act, intituled, An act to prevent delays at the quarter sessions of the peace. 34. For lessening the duty upon tin and pewter exported, and granting an equivalent for the same, by a duty upon drugs. 35. For raising the militia for the year 1697, although the month's pay formerly advanced be not repaid. 36. For the further encouragement of the manufacture of lustrings and alamodes within this realm, and for the better preventing the importation of the same. 37. For explaining and enforcing the act for paving and cleansing the streets within the cities of London and Westminster, and borough of Southwark, and weekly bills of mortality, and streets adjoining thereunto; and for widening the street at the south end of London Bridge.

9 *W. III.* 1. Against corresponding with the late king James and his adherents. 2. To prevent the further currency of any hammered silver coin of this kingdom, and for recoining such as is now in being; and for the making out new exchequer bills, where the former bills are or shall be filled up by indorsements. 3. To give further time for the administring of oaths relating to tallies and orders, and for the easier dispatch of the public business in the exchequer, and in the bank of England. 4. For continuing the imprisonment of ——— Counter, and others, for the late horrid conspiracy to assassinate the person of his sacred majesty.

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9 & 10 *W. III.* 5. For satisfying and discharging the arrears of several annuities which incurred between the 17th day of May, 1696, and the 17th day of May, 1697. 6. That all retailers of salt shall sell by weight. 7. To prevent the throwing or firing of squibs, serpents, and other fire-works. 8. For explaining an act made the last session of parliament, for granting to his majesty certain duties upon malt, mum, sweets, cyder, and perry. 9. For rendering the laws more effectual for preventing the importation of foreign bone-lace, loom-lace, needle-work, point, and cut-work. 10. For granting to his majesty the sum of 1,484,015*l.* 1*s.* 11½*d.* for disbanding forces, paying seamen, and other uses therein mentioned. 11. For explaining an act made the last session of parliament, intituled, An act for supplying some defects in the laws for the relief of the poor of this kingdom. 12. For the enlarging, repairing, and preserving the bridge and key of the borough of Bridgewater, in the county of Somerset. 13. For granting to his majesty several duties upon coals and culm. 14. For continuing the duties upon coffee, tea, and chocolate, and spices, towards satisfaction of the debt due for transport service for the reduction of Ireland. 15. For determining differences by arbitration. 16. To execute judgments and decrees, saved in a clause in an act of the first year of the reign of king William and queen Mary, intituled, An act for taking away the court holden before the president and council of the Marches of Wales. 17. For the better payment of inland bills of exchange. 18. For repairing the highways from the town of Birdlipp, and the top of Crickley-hill, in the county of Gloucester, to the city of Gloucester. 19. For cleansing and making navigable the channel from the Hithe at Colchester, to Wivenhoe. 20. To naturalize the children of such officers and soldiers, and others, the natural born subjects of this realm, who have been born abroad during the war, the parents of such children having been in the service of this government. 21. For the better preventing the counterfeiting, clipping, and other diminishing the coin of this kingdom. 22. To repeal an act made in the 39th year of the reign of queen Elizabeth, intituled, An act to restrain the excessive making of malt, and to discharge and vacate orders made by justices of peace, by virtue thereof, for restraining maltsters from making malt. 23. For granting to his majesty a further subsidy of tunnage and poundage, towards raising the yearly sum of 700,000*l.* for the service of his majesty's household, and other uses therein mentioned, during his majesty's life. 24. For enlarging the time for purchasing certain estates or interests in several annuities therein mentioned. 25. For granting to his majesty, his heirs and successors, further duties upon stamped vellum, parchment, and paper. 26. To settle the trade to Africa. 27. For licensing hawkers and pedlars, for a further provision of interest for the transport debt for reducing of Ireland. 28. For the exporting watches, sword hilts, and other manufactures of silver. 29. To repeal the act made in the last session of parliament, intituled, An act for relief of creditors, by making composition with their debtors, in case two thirds in number and value do agree. 30. For increasing his majesty's duties upon lustrings and alamodes. 31. For raising the militia for the year 1698, although the month's pay formerly advanced be not repaid. 32. For the more effectual suppressing of blasphemy and profaneness. 33. To stop the coining of farthings and halfpence for one year. 34. For the more orderly payment of the lottery tickets, now payable out of certain additional duties of excise, and of other annuities lately payable out of the tunnage duties. 35. For preventing frauds and abuses in the charging, collecting, and paying the duties upon marriages, births, burials, bachelors, and widowers. 36. For the increase and preservation of timber in the New Forest in the county of Southampton. 37. For applying to the use of his majesty's navy and ordnance, the overplus of the money and stores which were provided for the building 27 ships of war. 38. For granting to his majesty an aid, by a quarterly poll, for one year. 39. For settling and adjusting the proportions of fine silver and silk, for the better making of silver and gold thread, and to prevent the abuses of wire-drawers. 40. For the explanation and better execution of former acts made against transporting of wool, fullers earth, and scouring clay. 41. For the better preventing the embezzlement of his majesty's stores of war, and preventing cheats, frauds, and abuses in paying seamens wages. 42. For enlarging the time for registering of ships, pursuant to the act for preventing frauds, and regulating abuses in the plantation trade. 43. For the better encouragement of the royal lustring company, and the more effectual preventing the fraudulent importation of lustrings and alamodes. 44. For raising a sum, not exceeding 2,000,000*l.* upon a fund for payment of annuities, after the rate of 8*l.* per centum per annum, and for settling the trade to the East Indies. 45. For taking away half the duties imposed on glass wares, and the whole duties lately laid on stone and earthen wares, and tobacco pipes; and for granting (in lieu thereof) new duties upon whale fins, and Scotch linen.

10 *W. III.* 1. For granting an aid to his majesty, for disbanding the army, and other necessary occasions. 2. To prevent the making or selling buttons made of cloth, serge, druggett, and other stuffs. 3. To prohibit the exportation of any corn, malt, meal, flour, bread, biscuit, or starch, for one year from 10th Feb. 1698.

10 & 11 *W. III.* 4. To prohibit the excessive distilling of spirits and low wines from corn, and against the exporting of beer and ale, and to prevent frauds in distillers. 5. For the cleansing, repairing, preserving and maintaining the haven and piers of Great Yarmouth, in the county of Norfolk. 6. To enlarge the

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trade to Russia. 7. For preventing irregular proceedings of sheriffs and other officers, in making the returns of members chosen to serve in parliament. 8. For making and keeping the river Tone navigable from Bridgewater to Taunton, in the county of Somerset. 9. For granting the sum of 1,484,015*l.* 1*s.* 11¼*d.* for disbanding the army, providing for the navy, and for other necessary occasions. 10. To prevent the exportation of wool out of the kingdoms of England and Ireland into foreign parts, and for the encouragement of the woollen manufactures in the kingdom of England. 11. To enable such officers and soldiers as have been in his majesty's service, during the late war, to exercise trades; and for officers to account with their soldiers. 12. For raising the militia for the year 1699, although the month's pay formerly advanced be not repaid. 13. For the continuing the imprisonment of ——— Counter, and others, for the late horrid Conspiracy to assassinate his sacred majesty. 14. For limiting certain times within which Writs of Error shall be brought for the reversing fines, common recoveries, and ancient judgments. 15. For continuing the act for the more easy recovery of small tythes. 16. To enable posthumous children to take estates, as if born in their father's life-time. 17. For suppressing of lotteries. 18. For taking off the remaining duties upon glass wares. 19. For making and keeping navigable the rivers of Aire and Calder in the county of York. 20. For making and keeping the river Trent in the counties of Leicester, Derby and Stafford, navigable. 21. For laying further duties upon sweets, and for lessening the duties as well upon vinegar, as upon certain low wines and whale fins, and the duties upon brandy imported, and for the more easy raising the duties upon leather, and for charging cinders, and for permitting the importation of pearl ashes, and for preventing abuses in the brewing of beer and ale, and frauds in the importation of tobacco. 22. For the more full and effectual charging of the duties upon rock salt. 23. For the better apprehending, prosecuting, and punishing of felons that commit burglary, housebreaking, or robbery, in shops, warehouses, coach-houses, or stables, or that steal horses. 24. For making Billingsgate a free market for sale of fish. 25. To encourage the trade to Newfoundland. 26. For opening the ancient and making any new roynes and water-courses in and near Sedgmoor, in the county of Somerset, for rendering the said Moor more healthful and profitable to the inhabitants.

11 *W. III.* 1. For taking away the bounty money, for exporting corn, from the 9th Feb. 1699, to the 29th Sept. 1700.

11 *&* 12 *W. III.* 2. For granting an aid to his majesty, by sale of the forfeited and other estates and interests in Ireland, and by a land tax in England, for the several purposes therein mentioned. 3. For laying further duties upon wrought silks, muslins, and some other commodities of the East Indies, and for enlarging the time for purchasing certain reversionary annuities therein mentioned. 4. For the further preventing the growth of popery. 5. For the repair of Dover harbour. 6. To enable his majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father and mother were aliens. 7. For the more effectual suppression of piracy. 8. For the appointing commissioners to take, examine, and determine the debts due to the army, navy, and for transport service: and also an account of the prizes taken during the late war. 9. For preventing of frivolous and vexatious suits, in the principality of Wales, and the counties Palatine. 10. For the more effectual employing the poor, by encouraging the manufactures of the kingdom. 11. To repeal an act made in the 9th year of his majesty's reign, intitled, 'An Act for rendering the laws more effectual for preventing the importation of foreign bone lace, loom lace, needle work, point, and cut work,' three weeks after the prohibition of the woollen manufactures in Flanders shall be taken off. 12. To punish governors of plantations in this kingdom, for crimes by them committed in the plantations. 13. For continuing several laws therein mentioned, and for explaining the act, intituled, 'An act to prevent the exportation of wool out of the kingdoms of Ireland and England unto foreign parts, and for the encouragement of the woollen manufactures in the kingdom of England.' 14. For raising the militia for the year 1700, although the month's pay formerly advanced be not repaid. 15. For the ascertaining the measures for retailing ale and beer. 16. For the better ascertaining the tythes of hemp and flax. 17. To prevent disputes that may arise of officers and members of corporations having neglected to sign the Association, and taken the Oaths in due time. 18. For the more effectual punishing of vagrants, and sending them whither by law they ought to be sent. 19. To enable justices of peace to build and repair gaols in their several counties. 20. For taking away the duties upon the woollen manufactures, corn, grain, bread, biscuit, and meal exported. 21. For the explanation and better execution of former acts made touching watermen, and wherrymen rowing on the river of Thames, and for the better ordering and governing the said watermen, &c. upon the said river, between Gravesend and Windsor. 22. For making the river Lark, alias Burne, navigable. 23. For the better preserving the navigation of the rivers Avon and Froome, and for cleansing, paving and enlightening the streets of the city of Bristol. 24. To enable the mayor and citizens of the city of Chester, to recover and preserve the navigation upon the river Dee.

12 *W. III.* 1. For renewing the bills of credit commonly called Exchequer bills. 2. For the further limitation of the crown, and better securing the rights and liberties of the subject. 3. For preventing any inconveniences that may happen by privilege of parlia-

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ment. 4. For appointing wardens and assay masters, for assaying wrought plate in the cities of York, Exeter, Bristol, Chester and Norwich. 5. For continuing a former act to prevent false and double returns of members to serve in parliament. 6. For continuing the acts therein mentioned, for preventing theft and rapine upon the northern borders of England. 7. For the better settling and preserving the library kept in the house at Westminster, called Cotton House, in the name and family of the Cottons, for the benefit of the public. 8. For raising the militia for one year, although the month's pay formerly advanced be not repaid. 9. For the recovering, securing, and keeping in repair the harbour of Minehead, for the benefit and support of the navigation and trade of this kingdom. 10. For granting an aid to his majesty for defraying the expence of his navy, guards, and garrisons for one year, and for other necessary occasions. 11. For granting to his majesty several duties upon low wines, &c. 12. For appropriating 3,700*l.* weekly, out of certain branches of excise, for public uses, and for making a provision for the service of his majesty's houshold and family; and other his necessary occasions. 13. To enable his majesty to make leases and copies of offices, lands, and hereditaments, parcel of his duchy of Cornwall, or annexed to the same; and for confirmation of leases already made.

13 *W. III.* 1. For reviving and continuing an act, intituled, 'An act for the appointing commissioners to take, examine, and determine the debts due to the army, navy, and for transport service, and also an account of the prizes taken during the late war.' 2. For punishing the offenders and soldiers, that shall mutiny, or desert in England and Ireland. 3. For the attainder of the pretended prince of Wales of high treason. 4. For continuing an act intituled, 'An act that the solemn affirmation and declaration of the people called Quakers, shall be accepted instead of an oath in the usual form.' 5. For granting an aid to his majesty by laying duties upon malt, mum, cider and perry. 7. For the further securing of his majesty's person, and the Succession of the crown in the protestant line, and for extinguishing the hopes of the pretended prince of Wales, and all other pretenders, and their open and secret abettors.

END OF VOLUME V.

T. C. Hansard, Printer,
Peterborough-Court,
Fleet-Street.

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NEW EDITION OF THE STATE TRIALS.

On Monday, the 2nd of January, 1809, *was published (to be completed in Thirty-six Monthly Parts, forming Twelve large Volumes in Royal Octavo),*

PART THE FIRST, *price* 10*s.* 6*d. of*

COBBETT'S

COMPLETE COLLECTION

OF

State Trials,

AND PROCEEDINGS FOR HIGH TREASON, AND OTHER CRIMES AND MISDEMEANORS, FROM THE EARLIEST PERIOD DOWN TO THE PRESENT TIME.

IN proceeding with the PARLIAMENTARY HISTORY, which it has been, and is, one of the principal objects of my life to lay complete before the public of the present day, and, in that state, to have the satisfaction of leaving it to posterity, I have, for some time past, perceived, that there would still be wanting a Work like that above-described. In putting to myself this question, "How shall I go to work to secure the best chance "of rendering a son capable of accomplishing great things; fit to have a share in guid- "ing the minds of others; of weight sufficient to make him an object of respect with "good, and of dread with bad, public-men?" In putting this question to myself, the answer my mind suggested was: "Suffer not his time to be wasted in learning sounds "instead of sense; suffer not his body and mind to be debilitated by continual con- "finement and continual controul and correction. Give him, God being your helper, "a sound body and strong limbs; habituate him to bear fatigue, to move with confi- "dence and rapidity in the dark; to fare and to sleep hard; and, above all other "things in the world, to rise with the lark, thus making his year equal to eighteen "months of his effeminate contemporaries. Next lead him into the paths of *knowledge*, "not minding whether pedants call it *learning*, or not; and, when he arrives at the "proper age for acquiring that sort of knowledge, make him acquainted with every "thing material, as to public affairs, that has *really* occurred in his country from the "earliest times to the present day. Open to him the book, not of speculation but of "unerring experience. That he may be able to judge of what is, as well as of what "ought to be, show him, in detail, all the political causes and effects, to be found in "our history, make him see clearly how this nation has come up, and how this govern- "ment has grown together."

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From these, or such like reflections, sprang that arduous undertaking, the PARLIAMENTARY HISTORY OF ENGLAND; and from the same source arises the Work, which I now submit to the judgment of the public. As I proceeded with the HISTORY, I found, that to read discussions, relating to Trials for High Treason and for other high Crimes and Misdemeanors, and not to be able to refer immediately to those Trials, they being so intimately connected with the history of the parliament, and being a detailed relation of some of the most important and most interesting events to be recorded, could not fail to be greatly disadvantageous to the student: yet to bring into the HISTORY such a mass of legal proceedings, which admitted of little abridgment, was, for several reasons, not to be thought of. I, therefore, resolved to form them into a separate Work, to be published during the same time, and in the same manner, as to paper and print, with the PARLIAMENTARY HISTORY.

Besides the consideration of uniformity, there were others which had great weight in this determination. The STATE TRIALS are now to be found only in an edition of *Eleven Volumes in folio*, a form so unwieldy that it is impossible they should ever be much read, to say nothing of the incomplete state, or of the expence; which latter alone, owing to the scarceness of even this imperfect edition, must be a serious obstacle to general circulation. So that this Work, though so absolutely necessary to the lawyer and the professed politician, very curious, interesting and instructive, in *itself*, and, in a high degree, illustrative of the legal, political, and constitutional history of the country, is to be met with in but very few private libraries, those of counsellors and solicitors not excepted. The mere reduction of size, from the unmanageable folio of former editions to that of the Royal Octavo, double page, which unites economy with convenience, will, in itself, be no inconsiderable improvement. But, the proposed edition will possess the following additional Advantages:

1. The Series will commence more than two hundred years before the time of the earliest transaction noticed in the former Editions.
2. Many very important Trials and curious matters, omitted in the former Editions, though occurring within the period which those Editions embrace, will be supplied; and the Series will be continued down to the present time:
3. The whole of the matter contained in the last Edition will be scrupulously preserved; so that, for the purposes of Legal Reference and Citation, the *authority* of the Work will be unquestionable:
4. The different Articles, relative to each case, will be placed together, so that the trouble of frequent references backwards and forwards attending a perusal of the former Editions, will be avoided; and, where references from one part of the work to another necessarily occur, the paging of the present work will alone be regarded, so that the confusion arising from the various pagings of the former editions will, in no case, arise to teaze and retard the reader:
5. The Trials, instead of being placed in the vexatious disorder of the former editions, will stand in one regular chronological succession, unless where a dif-

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ferent arrangement shall be dictated by some special reason; as, for instance, where more Trials than one concern the same party, or the same transaction; for, in such cases, it may sometimes be thought advisable to break through the order of time, for the sake of exhibiting together all the particulars relating to the same matter or the same person:

6. Brief Historical Notices of the conspicuous persons mentioned in the Work, or references to published Accounts of them, will be inserted:

7. Where Points of Law arise, references will be made to those parts of the Law Digests, or Treatises on Criminal Law, in which the principles and cases, relating to such points, are laid down, or collected:

8. In like manner, references will be made to my Parliamentary History for Parliamentary Proceedings connected with any Trial, and to other works calculated to elucidate any part of this Collection of Trials:

9. Some Trials before Courts Martial, but those only of the greatest importance and most general interest, and illustrative of the history of the times, will be preserved in this Work:

10. To each Volume will be prefixed a full and clear Table of Contents; and in the last Volume there will be a GENERAL INDEX to the whole Work, so complete that I hope it will be found to leave nothing of any importance difficult to be referred to:

11. In the last Volume will also be given what I call a PARALLEL INDEX, consisting of two Columns; in the first of which will be inserted, in their order, the numbers of all the Pages in the last Edition; and in the other, correspondent figures shewing in what Volume and Page of the present Work the contents of each page of the last Edition will be found; by means of which Parallel Index, the place in this Work of any passage occurring in the last Edition, may be ascertained with nearly as much ease and expedition as if the paging of that edition were preserved; which, it is obvious, would be perfectly impracticable, considering the valuable mass of new matter to be introduced.

It is computed, that the Eleven Volumes of the last edition of the STATE TRIALS will be comprized in Nine Volumes, of the New Edition, and that the Additional Matter to bring the Work down to the present time, will make three Volumes more. The whole work, therefore, will consist of Twelve large Volumes. The paper and print will be, in every respect, similar to those of the PARLIAMENTARY HISTORY. In the mode of publication only there will be this difference; that, while the HISTORY is published in *Volumes*, the TRIALS will be published in *Parts*, one Part coming out on the first day of every month, in the same manner as the magazines and other monthly publications. Three Parts will make a Volume, and it will be optional with the Subscribers, to take the Parts separately, or quarterly to take the Volumes done up in boards, in a way exactly similar to that of the HISTORY.

For me to pretend to undertake, unassisted, a Work of this sort, which, to execute well, requires the pen of a person not only possessed of *great legal knowledge*, but also

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well versed in the history of the law, would be great presumption. Without such assistance the Work was not to be thought of for a moment; and, I am convinced, that the very first Part must satisfy the reader, that it has not been undertaken without means of every kind sufficient to carry it on to a conclusion, in a manner worthy of matter so generally interesting and highly important. In the publication of the HISTORY, I relied upon the sound sense of the public rather than upon the prevailing literary taste of the times; and, from the success of that Work, I am convinced that success will attend this also. I am convinced, that there are readers, and readers enough, who wish to know from authentic sources, what the *facts* of our history are; how our government *really* was administered heretofore; what sort of men our forefathers *really* were, and how they *really* acted; and who will not be satisfied with vague notions which alone can be collected from historical magic lanthorns, like that of HUME for instance, in which no one single object is plainly or distinctly presented to us, but where a multitude of images are made rapidly and confusedly to pass before our eyes, distorted and discoloured according to the taste of the showman.

W. COBBETT.

*** The Work will be published by R. Bagshaw, Brydges Street, Covent-Garden; and will also be sold by J. Budd, Pall-Mall; J. Faulder, New Bond Street; Sherwood, Neeley, and Jones, Paternoster Row; Black, Parry, and Kingsbury, Leadenhall Street; Bell and Bradfute, Edinburgh; and J. Archer, Dublin.

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